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WILLIAM P. CLARK NOMINATION

HEARINGS

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF WILLIAM P. CLARK
TO BE SECRETARY OF THE INTERIOR

NOVEMBER 1 AND 2, 1983

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WILLIAM P. CLARK NOMINATION

TUESDAY, NOVEMBER 1, 1983

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9:10 a.m., in room SD-366, Dirksen Office Building, Hon. James A. McClure, chairman, presiding.

Present: Senators McClure, Weicker, Domenici, Wallop, Warner, Murkowski, Nickles, Hecht, Chafee, Evans, Johnston, Bumpers, Metzenbaum, Melcher, and Tsongas.

Also present: Charles A. Trabandt, chief counsel; Gary Ellsworth, deputy chief counsel—natural resources; Tony Bevinetto, professional staff member; D. Michael Harvey, chief counsel for the minority; Thomas B. Williams, professional staff member for the minority; Benjamin S. Cooper, professional staff member for the minority; James T. Bruce, counsel for the minority; Elizabeth Moler, counsel for the minority; Craig Gannett, counsel for the minority; and Linda Mason, professional staff member for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. Good morning. Today and tomorrow the Committee on Energy and Natural Resources will be conducting hearings on the nomination of William P. Clark to be the Secretary of the Interior.

Judge Clark is a man who has distinguished himself in his ability to take on difficult tasks and manage them efficiently. He is trusted by the President to do an effective job. I share this trust. His background as a rancher gives him the sensitivity for balanced resource management. This is an essential quality for the job he is about to assume. His service in the judiciary of the State of California as deputy secretary of state and National Security Adviser demonstrate his ability to listen and consider varying viewpoints prior to making any decision.

This quality is also essential because the Secretary of the Interior is governed by laws which present him with conflicting mandates.

On one hand, he is directed to conserve and protect the Nation's resources. On the other hand, he is directed to develop and utilize those resources for the betterment of the American people. Meeting these conflicting mandates is a difficult task at best. However, it can be done by striking a true balance.

It is my belief that Judge Clark is a man who has both the temperment and experience to achieve this goal. As I said at the beginning, I hope the committee will act expeditiously to confirm Judge Clark so that he can begin to get on with this difficult task.

Senator Metzenbaum.

STATEMENT OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Mr. Chairman, in January 1981, I was 1 of the 12 Senators who voted on the floor against the nomination of James Watt to be Secretary of the Interior. At that time I stated the following:

> I believe the Watt nomination sends exactly the wrong signal to the country. It is not merely a modification of existing policies. Mr. Watt's nomination represents a massive shift away from conserving our natural resources and toward turning public lands over to private interests. I believe that signal is bad for the Interior Department, but far more importantly, bad for the country as a whole.

Now we must ask the same question of Mr. Watt's successor. What is the signal that the nomination of William Clark sends to the country?

Mr. Clark comes before this committee with few qualifications for the job of Secretary of the Interior.

There is nothing in Mr. Clark's previous record to indicate involvement in policies of land use and protecting the environment and preserving our national parks and managing wilderness area.

In truth, there is only one primary qualification that Mr. Clark brings to this appointment. Mr. Clark's qualification is simply that he is a close personal friend and loyal assistant to the President of the United States.

Is that really enough qualification to be Secretary of the Department of the Interior? That is the question now faced by this committee and the Senate as a whole.

It is only fair to say that I met with Mr. Clark and I frankly confess that he is a very nice fellow and he is easy to get along with and I think we will be able to work with him in a personal relationship probably far better than we were able to work with Mr. Watt. But when it comes to the question of qualifications, I think that there is a gaping vacuum at that point.

For the past 3 years the country has suffered under the policies administered by James Watt at the Department of the Interior, but those policies have not only been Mr. Watt's policies, and that is a critical issue before this committee. Those policies are the policies accepted and endorsed by the President himself.

And what are the Reagan-Watt policies? Funds to acquire new national park lands have been slashed by 90 percent. Some of the most beautiful wilderness areas in the country have been opened up for drilling and development, raising a storm of opposition in the Congress. Valuable minerals such as coal and oil, minerals on properties owned by the Nation's taxpayers, have been virtually given away to developers at bargain basement prices, again forcing Congress to declare a moratorium.

The administration has made a wholesale effort to develop offshore oil and gas wells regardless of the impact on coastal areas.

Again, those valuable resources have been virtually given away in a time of glut of oil and gas supplies.

The Office of Surface Mining has been gutted. The list goes on and on and on.

In my opinion, we must view the Clark nomination in the context of President Reagan's environmental program and specifically within the context of Mr. Watt's tenure at the Department of the Interior.

To my knowledge, President Reagan never publicly reprimanded Mr. Watt for any of these policies implemented at the Department of the Interior. In fact, to my knowledge, President Reagan never even publicly reprimanded Mr. Watt for his last public outrage that slandered and insulted millions of Americans. President Reagan accepted Mr. Watt's resignation, but he never requested it.

At this time Mr. Watt's policies remain the official position at the Department of the Interior. They have not been changed. Many of the key positions remain occupied by men and women who are personally and ideologically alined with Jim Watt.

If Mr. Clark continues to, plans to continue these policies, this committee, the Senate, and the Nation as a whole deserve to know that.

If Judge Clark intends to change those policies, we deserve to know when and where and how they will be changed, and if Judge Clark has no opinion or is not yet informed enough to make decisions on major Interior policies over which he will preside, we should know that as well.

I certainly have no personal antagonism to Jim Clark, but I am deeply opposed to a continuation of the wilderness and Interior policies pushed by the Reagan administration over the past 3 years. I for one do not believe that this Nation, we in the Congress, can permit or allow those policies to continue unchallenged, and I believe that the issues before us today do not go to Judge Clark's integrity or his personality, but rather go to the policies of the Reagan administration, and I think those are the issues that we have to take into consideration as we judge this confirmation.

The CHAIRMAN. Senator Domenici.

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. Mr. Chairman, I just want to commend you for expediting the hearings. I think it is imperative that we do just as you have planned and have these hearings and let the judge speak to this committee and the Senate as quickly as possible.

I want to say to the nominee that I have to leave for about an hour to go down to a meeting. I will be back and I will participate fully in these hearings.

I am delighted that you took the opportunity to come back and visit with me at length. I assume you did that with most Members and I very much appreciate it, understand the role that you intend to fill, and hope you will explain that in that manner to the committee and Senate and the people of the country.

Thank you very much.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF HON. PETE V. DOMENICI

MR. CHAIRMAN:

I DO WELCOME THE OPPORTUNITY TO COMMENT ON THE NOMINATION OF WILLIAM P. CLARK -- JUDGE CLARK -- TO BE THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR. I WOULD URGE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE TO FAVORABLY RECOMMEND JUDGE CLARK TO THE FULL SENATE IN THE VERY NEAR FUTURE.

ONE CANNOT LOOK TO THE FUTURE DIRECTION OF THE DEPARTMENT OF THE INTERIOR WITHOUT PAUSING TO LOOK AT THE SIGNIFICANT PROGRESS THAT THE DEPARTMENT HAS MADE IN THE LAST 2½ YEARS.

UNDER THE INNOVATIVE -- AND SOMETIMES CONTROVERSIAL -- STEWARDSHIP OF JAMES WATT, MANY IN THE VAST WESTERN STATES FOUND A SECRETARY WHO WAS WILLING TO LISTEN TO THOSE WHO WERE MOST AFFECTED BY THE POLICIES THAT GOVERN THE FEDERALLY OWNED LAND. AND THIS WAS A MOST WELCOME CHANGE FROM THE PAST. TOO MANY TIMES, MY NEIGHBORS AND FRIENDS IN WYOMING AND THE SURROUNDING STATES FOUND THAT DECISIONS THAT AFFECTED THEIR LIVELIHOOD, SUCH AS GRAZING POLICIES ON BUREAU OF LAND MANAGEMENT LAND, ENERGY LEASING AND BADLY NEEDED RECLAMATION PROJECTS WERE BEING MADE ON THE BANKS OF THE

POTOMAC WITH LITTLE OR NO ADVICE OR COUNSEL FROM THOSE WHO LIVED IN THE WEST. SECRETARY WATT PROVIDED A REFRESHING CHANGE IN THAT PERCEPTION. ASSUREDLY THERE WAS NOT A UNANIMITY OF SUPPORT IN THE WEST OF ALL OF SECRETARY WATT'S POLICIES, BUT THERE CERTAINLY WAS THE CLEAR UNDERSTANDING THAT INTERIOR DECISIONS WERE BEING FASHIONED WITH A REGARD FOR THE PEOPLE WHO ACTUALLY LIVED AND WORKED ON OR NEAR THE MAJORITY OF FEDERAL LANDS. I WOULD HOPE THAT JUDGE CLARK WILL CONTINUE THIS WISE EFFORT.

MUCH HAS BEEN SAID BY CERTAIN ENVIRONMENTAL GROUPS ABOUT THE SUPPOSED LACK OF QUALIFICATIONS THAT JUDGE CLARK HAS FOR THE SECRETARY OF INTERIOR POST. I DO NOT CONCUR IN THOSE "OFF THE CUFF" JUDGMENTS. WILLIAM CLARK POSSESSES MANY FINE AND DISTINGUISHED QUALIFICATIONS, AMONG THE MOST IMPORTANT AND VITAL ATTRIBUTES BEING THE ABILITY TO LEARN AND THE WILLINGNESS TO LISTEN TO ALL PARTIES BEFORE FASHIONING A DECISION.

FEW OF US HERE IN THIS FASCINATING WASHINGTON ARENA WOULD BE IN OUR PRESENT POSITIONS IF THE PRINCIPAL JOB REQUIREMENT STATED ONLY THAT WE NEEDED TO BE "EXPERIENCED" IN ALL AREAS

THAT WOULD CONFRONT US IN OUR NEW POSITIONS. FOR SURELY THE TRUE TEST OF AN ADMINISTRATOR DEPENDS UPON HOW WILLING HE OR SHE IS TO LEARN AND LISTEN. JUDGE CLARK HAS A REMARKABLE HISTORY OF BEING A "QUICK STUDY" AND A VERY CAPABLE ADMINISTRATOR. HE IS ALSO VERY FRANK AND CANDID AND ALTHOUGH LACKING EXPERIENCE IN THE FIELDS OF FOREIGN AFFAIRS AND NATIONAL SECURITY, JUDGE CLARK SOON PROVED TO HIS MOST SKEPTICAL CRITICS THAT HE WAS VERY CAPABLE OF ACCOMPLISHING A FULL UNDERSTANDING OF COMPLEX INTERNATIONAL PROBLEMS AND AFTER ENTERING INTO CONSULTATIONS AND CONFERENCES WITH OTHERS, HE RENDERED WELL THOUGHT OUT AND VERY DEFENSIBLE DECISIONS. I THINK WE WOULD BE HARD-PRESSED TO FIND FINER QUALIFICATIONS FOR THE SECRETARY OF INTERIOR.

AS SECRETARY OF THE INTERIOR, WILLIAM CLARK WILL BE CONFRONTED WITH THE MISSION PRESENTED TO HIM BY THE STATUTES OF THE UNITED STATES WHICH WILL LEAD HIM INTO THE OFTEN CONFLICTING SITUATION OF PROTECTING AND PRESERVING OUR NATURAL HERITAGE OF RESOURCES AND ALSO WISELY DEVELOPING THOSE RESOURCES NECESSARY TO MEET OUR ENERGY AND ECONOMIC NEEDS AND PROTECT OUR NATIONAL SECURITY. WHAT MORE COULD WE ASK FOR THAN AN ADMINISTRATOR WHO HAS A PROVEN TRACK RECORD OF METICULOUS

STUDY, WILLINGNESS TO CONSULT WITH OPPOSING POINTS OF VIEW AND THE ABILITY AND DESIRE TO WORK VERY HARD IN MASTERING ALL NEW DUTIES ASSIGNED TO HIM?

IN ADDITION, THE APPOINTMENT OF WILLIAM CLARK TO BE SECRETARY OF THE INTERIOR WILL BE EXTREMELY USEFUL TO ALL OF US THAT HAVE A STRONG INTEREST IN THE MANAGEMENT OF PUBLIC LANDS SINCE HE HAS PROVEN TO HAVE A VERY FINE CLOSE WORKING RELATIONSHIP WITH THE PRESIDENT OF THE UNITED STATES. THIS RELATIONSHIP WITH THE PRESIDENT WILL CONTINUE TO ENSURE THAT PUBLIC LANDS POLICY ISSUES WILL BE IN THE VERY FOREFRONT OF THE REAGAN ADMINISTRATION'S POLICIES. THAT IS A PLEASING PROSPECT TO ME INDEED.

IT IS NOT NECESSARY FOR ME TO FURTHER RELATE THE FINE PROFESSIONAL QUALIFICATIONS OF JUDGE CLARK. HIS TALENTS WERE LONG RECOGNIZED BEFORE HIS TENURE HERE IN WASHINGTON. HE HAS BEEN RESPECTED AND HIGHLY REGARDED IN ALL POSITIONS HE HAS HELD -- IN AND OUT OF GOVERNMENT. HIS FINE PROFESSIONAL AND

PERSONAL QUALITIES WILL CERTAINLY ENHANCE HIS TENURE AS SECRETARY OF THE DEPARTMENT OF THE INTERIOR.

I UNHESITATINGLY RECOMMEND JUDGE CLARK TO YOU TO BE THE NEXT SECRETARY OF THE INTERIOR AND I DO URGE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES TO REPORT HIM FAVORABLY TO THE FULL SENATE WHERE I FEEL CERTAIN HE WILL BE OVERWHELMINGLY CONFIRMED.

THANK YOU FOR THIS OPPORTUNITY OF EXPRESSION.

The CHAIRMAN. Senator Johnston.

STATEMENT OF HON. J. BENNETT JOHNSTON, A U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator JOHNSTON. Mr. Chairman, thank you. When I came to the Senate in November 1972, this committee's predecessor, the Committee on Interior and Insular Affairs, had 16 members. Only one was from a State lying east of the 100th meridian. Today the committee has 20 members. Nine are from States east of the 100th meridian, and the 10th is from Hawaii.

That change in the geographic distribution of our membership is not simply a reflection of the changes in our committee's jurisdiction. It is also a reflection of the dramatic transformation of the role of the Secretary of the Interior.

Many comments on President Reagan's nomination of William P. Clark to be Interior Secretary seem to be totally oblivious to this change. The President cited as one of Judge Clark's qualifications the fact that he is a westerner and a fourth generation rancher.

Chairman McClure was quoted as saying that "Bill Clark has a natural affinity for the job, coming from the West and having worked on a ranch."

Time magazine, in describing Judge Clark's shift from National Security Adviser to the Secretary of the Interior said, and I quote, "The Interior Secretary's task of managing the Federal Government's vast land holdings is of interest primarily to the Western States."

Now Mr. Chairman, I don't have anything against westerners because I think you still do have a majority of this committee.

The CHAIRMAN. I hope so.

Senator JOHNSTON. But I am concerned that these comments seem to ignore the changes that have taken place during the last 11 years, many of which were already underway prior to that time.

These changes are evidenced by a whole series of laws setting out modern policies for management of our natural resources. These include the following laws that originated in our committee—the National Environmental Policy Act, the Land and Water Conservation Fund Act amendments, the Federal Land Policy and Management Act, the National Forest Management Act, the Federal Coal Leasing Amendments Act, Surface Mining Control and Reclamation Act, Outer Continental Shelf Lands Act Amendments, Public Rangeland Improvements Act, and the Alaska National Interest Lands Conservation Act.

Today all Americans are deeply concerned about the management of our national lands and our Outer Continental Shelf. All Americans care about our national programs for surface coal mining, outdoor recreation and historic preservation. All Americans realize that the Secretary plays a vital role in the national energy, environment, and natural resource policies and programs.

In recent years the increasingly acerbic debate between preservationists and developers has tended to ignore the central issue—our survival as a Nation does not depend on either preservation or development. It depends on both.

The Secretary of the Interior has broad authority to achieve the multiple and sometimes conflicting goals set out in many of these laws. I look forward to hearing from Judge Clark as to how he intends to carry out his statutory responsibilities, particularly for management of the national park and wildlife refuge systems, development of the oil and gas resources of the Outer Continental Shelf, assistance to the State and local governments for park and recreation programs, primarily the land and water conservation fund, and finally, the development and protection of water resources.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Wallop.

STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Thank you, Mr. Chairman, and let me welcome you, Judge Clark, to these hearings, and to evidence my very real pleasure at your nomination.

I have worked with Judge Clark in the past primarily in my capacity as a member of the Senate Intelligence Committee, and in those dealings I have been greatly impressed with him as a man who is quick witted, who is perceptive, who is able to grasp complex issues quickly, and who is not afraid of making a decision.

President Reagan has chosen him for this important Cabinet position because Bill Clark has his trust and his respect, and because he has served Presidents so ably in other positions of responsibility. I am confident that Judge Clark will when confirmed do a first-class job in this assignment as well.

Being Secretary of the Interior is no easy task. It carries with it great responsibility for managing vast areas of natural resources across the Nation. It is inherently a balancing act, balancing development against preservation. Clearly we must develop the rich and abundant natural resources which belong to all Americans in order to create jobs and maintain a strong economy, and to preserve national security.

Just as certainly we must protect and preserve outstanding natural areas for present and future generations. These goals are not mutually exclusive except to some. I believe we can have both. No one interest will always win. There must be compromise, but compromise does not imply surrender in every instance to one point of view. It is the weighing of points of view while accommodating the needs of Americans.

Finally, I must add a word as a westerner. While the Department of the Interior policies affect every citizen of our Nation, they are particularly important to westerners whose daily lives they often govern. One-third of our country is federally owned. Much of that is managed by the Department of the Interior, and most of that lies in the West, and it is not an island of Federal lands. It is commingled with private lands and State lands and it is our neighbor with whom we deal.

The Bureau of Land Management, the National Park Service, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, and other land management agencies cannot be absentee landlords. They must be good neighbors who listen to our concern, who make fair decisions free from bureaucratic mumbo-jumbo, who work with local and State government.

We in the West want to protect our environment, and in fact we did before all the rest of the country seemed to discover it.

We also want to help rebuild America, but we are not, however, persuaded that all the wisdom of America resides along the Potomac. We look forward to a true partnership and we look forward to hearing your testimony as well as to your confirmation.

Thank you.

The CHAIRMAN. Thank you.

Senator Melcher.

STATEMENT OF HON. JOHN MELCHER, A U.S. SENATOR FROM THE STATE OF MONTANA.

Senator MELCHER. Thank you, Mr. Chairman. I won't repeat what my friend from Wyoming has said on the effect that the Department of the Interior has on our lives in the West with all the various assignment of duties by Congress to that Department.

It goes without saying that the designation of the Secretary of the Interior is a very important post for us in Montana and in other Western States.

I have had some difficulty in the past 2½ years contacting Secretary James Watt on some of the matters that I thought were extremely urgent for our State and for the operation of the Department of the Interior on public lands throughout all of the Western States. Unlike some of the press I read, I think that perhaps one of the difficulties with Secretary Watt is that he wasn't at home very

often in his office in the Interior Department. He was out making speeches—sometimes critical, sometimes not. I think that his absence weakened the effectiveness of the Secretary's office and of the entire Department.

Judge Clark, I welcome this opportunity to hear your views and to hear your responses to questions. I am a little bit amazed at one point, and that is not from you, Judge Clark, but from the President. That is his heavy emphasis on his recommendation of you as a fourth-generation rancher. I think it is obvious that President Reagan in designating you as his nominee knew it would be quite a surprise to everyone. I haven't found anyone here or in my home State who anticipated your nomination. Therefore, I think it is fair to ask you about your agricultural views. Indeed they will have some bearing on your management of the Department of the Interior. I will get into that when my turn comes.

Now, Mr. Chairman, we are in a rather unusual position. We have this nomination before us and very great interest from members of the committee in hearing from Judge Clark and interrogating him on his views. We also have pending a motion to proceed or a unanimous consent to proceed on the natural gas bill. Then, if unanimous consent isn't given, a motion to proceed on the natural gas bill, which as the majority leader announced, will be made at 2 o'clock this afternoon.

It seems to me we are going to have to have a great deal of cooperation among members on both sides of the aisle on this committee to make sure that the hearing and discussion of that bill can go on simultaneously this afternoon.

Might I inquire at this time just how you expect to do that?

The CHAIRMAN. With great difficulty, but as a matter of fact, as the Senator knows, that in setting the time for these hearings we had hoped we would not find that conflict, that natural gas would be up last week. Events took place. We had actually delayed this hearing today in order to avoid the conflict, and the floor schedule interfered with that decision, so as the Senator knows, in arranging for these hearings the Senator requested that we set kind of a definite timetable so all members could take advantage of that timetable and that requires that we proceed from 9 o'clock until 12 and from 1:15 until the time of adjournment today, and again on tomorrow.

I think every member of the committee will simply have to do the best that they can with respect to those two matters and make their own judgments and choices as to where they must allocate their time.

Senator BUMPERS. Will the Senator yield? Approximately how much time is the chairman anticipating this hearing taking?

The CHAIRMAN. We have scheduled 2 days, with the possibility if we have to of going a third.

Senator MELCHER. I thank the chairman.

The CHAIRMAN. But we hope to get the outside witnesses on tomorrow. As you will note from the witness list, there are a number who wish to testify.

Senator MELCHER. I shall not take any more time, and I thank the chairman.

The CHAIRMAN. Thank you.

Senator Murkowski.

STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I was certainly pleased and surprised when the President announced he was nominating Judge Clark to replace Secretary Watt.

I have had the opportunity of working with Judge Clark in his tenure as both Secretary and Deputy Secretary of State and National Security Adviser, and I have found him to be extremely fair, very effective, most efficient. I want to congratulate you, Judge Clark, and I may say that I certainly look forward to working with you.

I think the President's choice of Interior Secretary is, of course, extremely important to Alaska as well as other Western States, and our entire country. However, the Federal Government is my State's absent landlord, with more than 80 percent of the land mass being owned and managed by the Federal Government. For Alaska, Jim Watt's good neighbor policy was an important commitment on the part of the Federal Government to live up to its promises, and we were never let down by James Watt.

Prior to the election of our President and employment of Secretary Watt, my State had only receive 46 million acres of the 104 million acres that it had been promised under the Alaska Statehood Act. This was a binding contract between the Federal Government and the State of Alaska.

Similarly, Alaska's Native Corporations had received a little over 17 million of the 44 million acres they had been promised with the Native Claims Settlement Act. However, under the previous Secretary's leadership, the Department of the Interior conveyed more lands, 40 million acres, to the State of Alaska in 2½ years than it had under any other Secretary of the Interior in our 25 years since statehood.

It was a commitment to States rights. The only difficulty is that with the exception of Hawaii and Alaska, all the other States have experienced that contract, and we had not. Moreover, many arbitrary land withdrawals and troublesome regulations imposed by prior administrations were eliminated under Secretary Watt and many of the existing policies treating Alaska like a territory rather than a sovereign State have been revised.

I believe Judge Clark will perform admirably in his new post. During each of the two posts that he has had in the administration he has shown a remarkable ability to quickly grasp the essence of issues and act in a decisive manner, so the issues which must be faced by the Interior Secretary today are exceedingly complex, emotional, and politically explosive. It takes a steady, a reasonable, and a fair hand at the helm to address these issues in a manner that will protect both the environment while promoting the wise utilization of this Nation's resources.

Competing interests must be balanced and difficult judgments must be made. I believe that Judge Clark's distinguished career on the California bench will be most helpful in this regard, and I am pleased that the President has seen the value to bringing his

proven capabilities to the Department of the Interior. The vast wealth of our Nation which lies mainly in its natural resources will be enhanced by his leadership, and Mr. Chairman, I look forward to supporting his confirmation.

The CHAIRMAN. Thank you.

Senator Bumpers.

STATEMENT OF HON. DALE BUMPERS, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator BUMPERS. Senator Johnston really covered most of what I wanted to say, but I will just add this—when I came to the Congress in 1975 I listed my three committee choices, with a priority of Finance, Commerce, and Interior. Senator McClellan, when I told him I had listed Interior, said "that is just a western committee, you don't want on that," and indeed I didn't want on it. But I didn't have any choice. The steering committee put me on it, and I have sat here ever since.

One reason I didn't want on it then was because I had no appreciation for the Federal domain and the preservation of public lands, the national parks, wildlife refuges and all of those things. The second reason I didn't want on it, of course, was because I didn't come from the West. But Mr. Chairman, I had one interest at that time which was energy, and the Interior Committee did and does have jurisdiction over the energy policy of this country. That policy isn't much now, but it is the committee's responsibility and it will be on the front burner again. After the embargo of 1973 and after this committee changed its name to the Energy Committee, it became a highly sought committee. Now, of course, we find ourselves trying to balance energy policy with the preservation of Federal domain and they are not incompatible.

On the contrary, the way we manage our public lands in large measure determines our energy policy. Right now—this is based on 1980 figures—18 percent of the U.S. domestically produced energy was from Federal lands; 14 percent of all the oil we produce in this country is off Federal lands; 30 percent of our natural gas, 9 percent of the coal, and 47 percent of our hydroelectric power—all come from the public domain. This committee's jurisdiction over energy and the public domain mesh together.

Not many people in this country know, for example, that the U.S. Government administers 737 million acres of land; 737 million acres is more than the entire United States was comprised of in 1790 when we first became a republic. Of that 737 million acres, the Interior Department has the responsibility for administering 568 million acres of it. All the Federal lands, 737 million acres, total more land than the total area of 10 good sized States in this country.

The Federal Government owns more than half the lands in Alaska, Idaho, Nevada, Oregon, and Utah. About 4½ million cattle graze on public lands; 4 percent of all the Nation's beef; 21 percent of all the sheep grown in this country graze on Federal lands.

In addition to all of this, Judge Clark will have responsibility for about 1 billion acres of Outer Continental Shelf lands. Just the Bureau of Land Management alone has jurisdiction over almost 14

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percent of all the lands in the United States, and it has jurisdiction over 42.48 percent of all the lands controlled the United States, so I say those things to dramatize what the Interior Department is.

In many ways with the exception possibly of the Defense Department, I think that Interior holds more potential for what kind of a nation we are going to be over the next 100 years than any agency of the Government, even though in dollars to administer it is one of the smallest. So I consider this confirmation hearing extremely important to the Nation, not just to Judge Clark as a person.

He has been in my office and I spent about an hour with him. He is a very engaging man, obviously very talented or the President wouldn't have the respect he has for him, but the issue isn't President Reagan. It isn't Judge Clark. It is how we are going to deal with this colossal public domain so that my children and grandchildren and yours have a better shot at a secure future and some of the esthetic values that you and I have taken for granted for so many years. The Interior Department is not only going to determine whether we make it, but how we will make it.

I would be remiss if I didn't say that I personally think that James Watt's policies virtually traumatized the Nation. This committee has been successful in some ways, as has the Congress, in holding in abeyance a lot of the things he wanted to do. I think people ought to be held accountable not for just what they did but for what they wanted to do and didn't get to do.

That's all I have to say, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Hecht.

STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator HECHT. Mr. Chairman, in view of the length of today's witness list I will do us all a favor and keep my remarks short. I will simply highlight a few of the reasons why I intend to support Judge Clark's nomination for Secretary of the Interior.

First, I would like to remind my colleagues that 87 percent of my home State is owned by the Federal Government, most if it under the Department of the Interior. It is a landlord/tenant relationship, and Nevada was the genesis of the Sage Brush Rebellion, this management has had its ups and downs.

Public land management is not an abstract term in Nevada. It is not something people only see on TV or read about in the latest Sierra Club bulletin. People live on the public lands in Nevada, and it has been their livelihood for generations.

Because of Nevada's critical dependence on public land access for ranching, mining, and geothermal energy development, I think it is imperative that the Secretary of the Interior understand the day-to-day stewardship of the public lands that the westerners have of economic necessity maintained for generations.

I am confident that Judge Clark, himself a fourth generation westerner, understands this concept. Judge Clark will also bring from his present job as national security adviser a deep appreciation for the national security implications of public land management and energy development policy decisions.

Secretary Watt was criticized for his development oriented policy, but we must not forget that the United States is importing just as much oil today as it did 10 years ago at the time of the Arab oil embargo. We must not forget our Nation's continued dependence on foreign mineral resources, many of which are of strategic military importance.

Finally, I think Judge Clark will bring to the Office of the Secretary a much needed sense of judiciousness if you will about the policy questions he will confront. I know that today's testimony will further emphasize the need for such a balanced approach, and I believe that Bill Clark is eminently well suited to meet this challenge.

The CHAIRMAN. Thank you very much, Senator Hecht.

Senator Tsongas.

STATEMENT OF HON. PAUL E. TSONGAS, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator TSONGAS. Thank you, Mr. Chairman. Mr. Chairman, I have a prepared statement which I would like to have inserted in the record.

The CHAIRMAN. It will be put in the record in full.

Senator TSONGAS. My full statement goes into some of the issues that others have raised. Let me simply say briefly at this point that I divide this committee and the Senate into several groups. One group including Senator Metzenbaum for example might say, "I voted against James Watt and I have been vindicated."

The second group are those who might say, "I voted for James Watt and I am proud of it." That is a very small group.

The third would be those who voted for James Watt and don't mention it anymore, and I fit into that category. There were those of us who believed that we could have been a bridge for James Watt to the environmental community. That turned out not to be the case. His approach was divisive, confrontational, zealous, and I think it hurt all of us. It hurt the country, and by the time he left, his tenure had caused distress and embarrassment to many of his friends.

Now that era is over, and it has become a kind of caricature, which is a hell of a way to end one's public career.

The question before us now is whether Judge Clark and his approach to his new chores is simply that of a James Watt who took the Dale Carnegie course in civil behavior. That is the issue. The issue is not personality. The issue is policy.

It has been argued that Judge Clark does not have experience, and that is probably true. That doesn't mean anything to me. I don't think experience is worth a great deal. I think what counts is whether Judge Clark has a sense of conservation and love of this Earth. If he has that, then the lack of experience I think will be immaterial.

Judge Clark is clearly a man sensitive to the need for dialog. He has exhibited that in the last couple of weeks. He truly is a man of decency and integrity. That has never been questioned. He has the President's confidence, and that is very important.

For his sake and for the sake of his own personal role in history, I would hope that he will not just be a smoother James Watt. I hope that he will operate in the great tradition of preservation and conservation as both Republican and Democratic Secretaries of the Interior have historically. If that proves to be the case, then I think history will be very kind to Judge Clark.

[The prepared statement of Senator Tsongas follows:]

SENATOR PAUL E. TSONGAS

OPENING STATEMENT

NOMINATION HEARING FOR JUDGE CLARK

NOVEMBER 1, 1983

/

Mr. Chairman:

We sometimes forget the enormity of the responsibilities which rest upon the Secretary of the Interior. He or she is the steward of our natural heritage -- charged with the protection of our richest treasures as a nation. Our children and grandchildren -- all Americans present and future must rely upon the Secretary of the Interior to safeguard our public lands and their wildlife and to preserve our precious natural environment while wisely manging the development of coal, oil and gas resources. This adds up to a complex and difficult job -- one which leaves no room for partisanship or inflexible ideological motives. No area of public policy has a richer tradition of bi-partisanship than the history of the conservation movement in America.

In my view, the tenure of James Watt as the Secretary of the Interior has been a disaster.

Time and time again, with respect to our nation's coal and off-shore oil resources, grazing lands, water rights, rivers, parks, wilderness areas, wildlife, timber and fisheries, Secretary Watt in a variety of ways and in many separate actions has demonstrated contempt for the protection of our precious natural resources.

The appalling record of the Watt term at Interior would be less alarming if it weren't already amply clear that it had the full blessing of the President. The Watt policies <u>are</u> the Reagan policies.

As we begin these hearings on the confirmation of the nomination of William Clark to serve as Secretary of the Interior, my vote is still in doubt.

In all candor, however, unless Judge Clark is about to amaze us all, Mr. Chairman, and break with the Reagan-Watt over-emphasis on pro-development policies, which have undermined the protection of our public lands and natural resources, the Reagan-Watt policy of confrontation with all of those in the enviornmental movement who strive to serve the public interest and the gross politicization of the Department of the Interior carried on by the Reagan-Watt appointees there, I cannot and will not vote for confirmation.

The CHAIRMAN. Thank you very much.
Senator Chafee.

STATEMENT OF HON. JOHN H. CHAFFEE, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Thank you very much, Mr. Chairman. Mr. Chairman, I would like to first of all welcome Judge Clark here and express my appreciation for the time that he has spent with me and others. I have arranged for him to meet with me, and furthermore, I would like to say, Mr. Chairman, I don't consider the hearings that we are undertaking to be a trial of James Watt with the accused absent.

What I am interested in is the views of Judge Clark and what his thoughts are on the Department which he is nominated to head.

Now the Secretary of the Interior, of course, is the chief steward of our Nation's natural resources which are there for the enjoyment of all citizens. Whoever sits in that job it seems to me should not be primarily concerned with oil and gas or coal or other mineral and natural resource development, but should be equally concerned about carrying out and advancing programs and policies aimed at protecting and conserving our national parks and refuges and our public lands as well as fish and wildlife resources.

Now it is no secret, Mr. Chairman, that the Secretary is confronted with the difficult task of managing all these resources in order to avoid to the maximum extent possible conflicts between the development and the environmental groups.

Mr. Chairman, we have heard the word "balanced" used in describing the role of the Interior Secretary. It was said his job is to balance competing interests, but I am not very enthusiastic about that word because it seems to me the word "balance" is in the eyes of the beholder. James Watt's idea of balanced is certainly not the same as that of the Wilderness Society, and so I think it is important for the Interior Secretary to work to find common ground on issues where there is a difference of opinion, and I think Judge

Clark will bring to this task great experience and proven record as a result of his judicial experiences in California.

Certainly over the past 2½ years we have seen policies implemented which have clearly been balanced in favor of the development over the protection in the Interior Department. Now Secretary Watt often talked about his good neighbor policy with those in the West, but it seemed to me that that did not extend to an adequate extent to the environmental community. The good neighbor hand didn't reach far enough to that group, and I am hopeful that Judge Clark will meet regularly with the major environmental groups. Mr. Chairman, he has already done this, and I commend him for it, and he has extended himself in a very busy period to meet with as many environmental organizations as could be arranged in the time since he has been nominated, so I look forward to hearing Judge Clark's testimony.

I will be particularly interested in hearing his thoughts on policies affecting the national parks and refuge systems, wetlands protection, fish and wildlife matters, and any new idea he may have to further the objectives of conservation of our natural resources.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Evans.

STATEMENT OF HON. DANIEL J. EVANS, A U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator EVANS. Mr. Chairman, Judge Clark, welcome. I must say in passing to my good friend, the Senator from Louisiana, that there are westerners and then there are westerners. Don't attempt to lump all of us in one group. There are coastal westerners and mountain westerners. There are Alaskans separate from all of us. There are Hawaiians, so the West is a very——

Senator JOHNSTON. God-fearing westerners!

Senator EVANS. Judge Clark, I join with the other members of the Committee on Energy and Natural Resources in welcoming you to the hearing this morning, and I come to the confirmation hearings without preconceived ideas as to your philosophy which I am sure you will express during the course of this day.

I come to listen with interest, as do all Americans, to the articulation of your attitudes and goals for the Department of the Interior.

As Senator Pat Harrison explained early in this century, "the people have a right to know the character of those that are being thrust upon them in high official positions," so I do look forward to your testimony.

Should the Senate confirm your nomination, you will be charged with the administration of an exceedingly important public trust. As trustee of the Nation's natural resources, you must conserve and maintain them for all of the people. As Congress was reminded by President Theodore Roosevelt, "to waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness will result in undermining in the days of our children the very prosperity which we ought by right hand down to them amplified and developed."

Public natural resources are the common property of all the people, including generations yet to come. As Interior Secretary, the obligation to protect the rights of the public in its natural resources will be placed in your care.

You will be faced, of course, with the difficult task of weighing conflicting environmental and societal concerns and arriving at a course of action that will be prudent as well as reflective of the high priority which the Constitution has placed on the conservation of our natural scenic, esthetic, and historical resources.

When nominations for Cabinet offices are sent to the Senate, the final question posed is whether the Senate will advise and consent to this nomination. To defer completely to the President on the principle that he has a right to select his own assistants makes a mockery of the Senate's advise and consent role. Cabinet Secretaries are not mere staff support to the President. Rather they are called upon to administer programs that Congress has enacted into the law. A lack of interest by an administrator or overhostility to a legislative program can undercut the policies that Congress has taken pains to announce as national goals.

I come to these confirmation hearings with an open mind and I hope that others will do the same. I have a long memory from a different point of view as a Governor and remember very well the confirmation proceedings of two of my colleagues to this office.

Governor Hathaway during the confirmation proceedings was ravaged so belligerently by environmental organizations that it affected his health and he could not continue as the Secretary of the Interior.

The proceedings of Secretary Hickel, Governor Hickel, to the same office, were protracted, intensive, and aggressive. Secretary-designee Hickel was loudly criticized by conservationists. He later went on to achieve their support. During the confirmation proceedings Hickel was characterized by a supporter as a man of integrity and independence, sometimes mistaken and often stubborn in his mistakes, but still a man who is open to fresh viewpoints. Seventeen months later after Secretary Hickel was fired by then President Nixon, an early critic conceded that men of Hickel's courage and candor are all too rare in public service at this moment, and we fear that they may be thinned out much too soon, and that is directed not so much at you as to some of those same conservation organizations who were loud in their criticisms at the beginning, not giving either of those men a chance, and loud in their praise at the end of Secretary Hickel's term.

Judge Clark, I hope to see in your leadership of the Department the same independence and integrity and openness to fresh viewpoints seen in the stewardship of Secretary Hickel. I hope and believe we will see a firm commitment to conventional policies and programs that you are charged to implement during these proceedings.

Of course, I, like others will look forward to hearing of your intentions and hope that the relationship between Congress and the Secretary of the Interior will be one of mutual respect and cooperation. I express my sincere desire that we witness today the birth of a positive, constructive relationship which will continue between the legislative and the executive branches of Government.

Thank you, Mr. Chairman.

[The prepared statement of Senator Evans follows:]

STATEMENT OF DANIEL J. EVANS
ON THE NOMINATION OF
WILLIAM P. CLARK
NOVEMBER 1, 1983

SENATOR EVANS. Judge Clark, I join the other members of the Committee on Energy and Natural Resources in welcoming you to the hearing this morning. I come to your confirmation hearings without preconceived ideas as to your abilities and philosophies. I come to listen with interest, as do all Americans, to the articulation of your attitudes and goals for the Department of the Interior. As Senator Pat Harrison explained early in this century, "the people have a right to know the character of those that are being thrust upon them in high official positions." You also have a right to explain your positions without prejudgment. I look forward to your testimony.

Should the Senate confirm your nomination, you will be charged with the administration of a public trust. As trustee of the nation's natural resources, you must conserve and maintain them for the benefit of all the people. As Congress was reminded by President Theodore Roosevelt, "to waste, to destroy our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right hand down to them amplified and developed." Public natural resources are the common property of all the people, including generations yet to come. As Interior Secretary, the obligation to protect the rights of the public in its natural resources will be placed in your care.

As you know, the Department of the Interior has long been dedicated to the wise management of natural resources, a task defined simply by President Roosevelt as "dealing intelligently with what we have." You will be faced with the constant and difficult task of weighing conflicting environmental and societal concerns in arriving at a course of action that will be prudent as well as reflective of the high priority which constitutionally has been placed on the conservation of our natural, scenic, esthetic and historical resources.

The Department you have been chosen to head has unique responsibility for managing our Nation's natural resources. It is also charged with special obligations to American Indians and to the people of territories and other areas under the U.S. flag. I am sure you will remember this responsibility for important human resources.

When nominations for cabinet offices are sent to the Senate, the final question posed is "will the Senate advise and consent to this nomination?" To defer completely to the president, on the principle that he has a right to select his own assistants, makes a mockery of the Senate's advise and consent role. Cabinet secretaries are not mere staff support for the President. Rather, they are called upon to administer programs that Congress has enacted into law. A lack of interest by an administrator, or overt hostility to a legislative program, can undercut the policies that Congress has taken pains to announce as national goals.

I come to these confirmation hearings with an open mind, and I hope that others will do the same. During the confirmation process, we must remember the confirmation proceedings of Walter J. Hickel to the same office to which Judge Clark now aspires. The proceedings were protracted, intensive, and aggressive. Secretary-designate Hickel was loudly criticized by conservationists; he later went on to achieve their support. During the confirmation proceedings, Walter Hickel was characterized by a supporter as "a man of integrity and independence, sometimes mistaken and often stubborn in his mistakes, but still a man who is open to fresh viewpoints." Seventeen months later, after Secretary Hickel was fired by then-President Nixon, an early critic conceded that "men of [Hickel's] courage and candor are all too rare in public service at this moment and we fear that they may be thinned out much too soon."

Judge Clark, I hope to see in your leadership of the Department of the Interior the same independence and integrity, and openness to fresh viewpoints, seen in the stewardship of Secretary Hickel. I also hope to see a firm commitment to congressional policies and programs you are charged to implement. During these proceedings, I look forward to hearing of your intentions as Interior Secretary. I pledge to you complete openmindedness; I ask in return complete candor. The relationship between Congress and the Secretary of the Interior can be one of mutual respect and cooperation. I express my sincere desire that we witness today the birth of a positive, constructive relationship between the legislative and executive branches of government.

QUESTIONS TO INTERIOR SECRETARY-
DESIGNATE WILLIAM P. CLARK
BY
SENATOR DANIEL J. EVANS
NOVEMBER 1, 1983

1. Secretary Watt proposed oil and gas leasing in National Wilderness areas. In the Fiscal Year 1984 Interior Department Appropriations bill, Congress passed a moratorium on leasing in all wilderness areas. Will you support this moratorium? Will you resist oil, gas, mineral or timber extraction leases in proposed or designated wilderness study areas until Congress determines their status?

2. Will you honor the public policy established under President Eisenhower that has protected national wildlife refuges from mineral development? Specifically, will you reverse Secretary Watt's recent decision to open up more than 1 million acres of wildlife refuge in the continental United States to oil and gas leasing?

3. In your letter of October 31, 1983 to Senator McClure you state that you support receiving fair market value for private use of public resources. How do you propose to establish sound national coal leasing policy which insures that taxpayers receive fair market value for coal leases, and which also insures that environmental values are not compromised?

4. In your letter of October 31, 1983 to Senator McClure you state that you support close cooperation with State and local governments, and local citizens. In making decisions on off-shore oil and gas leases, will you consult with affected coastal states and coordinate with their coastal zone management plans?

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5. The Senate Energy and Natural Resources Committee has on its agenda two bills to amend the Geothermal Steam Act. One of the most controversial aspects of geothermal steam development is leasing and development on federal lands in proximity to the boundaries of national parks and monuments containing thermal features. What steps would you take to protect geothermal features of national significance located within our national parks and monuments?

6. By passing the Land and Water Conservation Act, Congress envisioned taking revenues from finite, extractive resources (mineral leasing) and pledging those funds to the acquisition or protection of environmentally sensitive areas. Are you supportive of this concept? Or would you place a moratorium on resource acquisition, with a view that revenue from extractive resources should be used to fund other federal spending?

7. More than sixty national parks, refuges, and national recreation and preservation areas have been authorized by Congress, but not acquired by the Interior Department. Will you affirmatively undertake an acquisition program to utilize funds authorized by Congress?

8. Previous policies have constituted a "near moratorium" on adding new units to our national park system until deferred maintenance is completed and other costs paid for. Do you intend to review or revise this policy?

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9. In 1983, President Reagan initiated an "asset management" program to review all real property holdings of the federal government and to expedite the disposal of "surplus" properties. Federal lands in several municipal watersheds (surrounding metropolitan areas) were designated to be sold under the program. Will watershed areas be excluded from future sales to assure adequate municipal water supply and water quality. Will you afford municipalities the opportunity to acquire such watersheds?

10. The Administration requested no funds in Fiscal Year 1984 for historic preservation. These are the matching funds which the states have used to carry out federally-mandated activities such as structural certification for federal tax incentives and review for nomination to the National Historic Register. Will you seek supplemental historic preservation funds in Fiscal Year 1984? Will you request needed funding in Fiscal Year 1985?

11. The Administration requested no funds in Fiscal Year 1984 for cooperative wildlife and fisheries research. Cooperative fishery units in Washington, Oregon, Idaho and California are involved in 38 projects directed at solving various anadromous fisheries problems. Cooperative fishery units are also conducting approximately 50 percent of the research projects on Atlantic salmon. Will you seek supplemental cooperative wildlife and fisheries research funds in Fiscal Year 1984? Will you continue the policy of not requesting cooperative wildlife and fisheries research funds? If so, how will you offset the adverse impacts on Washington's fishery?

12. When the federal government proceeded with the development of the Columbia River Power System dams it pledged to fund fish hatcheries necessary to offset the adverse impact of the dams on anadromous fish runs in the Pacific Northwest. Secretary Watt proposed to reduce funding for fish hatcheries in the Pacific Northwest, thereby reneging on the federal government's pledge to protect the Region's anadromous fishery resource. Will you honor the federal commitment to fund Columbia River fish hatcheries?

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November 1, 1983
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13. Secretary Watt made "near promises" of more water project funding in Western states. The Office of Management and Budget limited project funding and insisted that state and local beneficiaries pay a larger share of construction costs. In the Fiscal Year 1984 Energy and Water Appropriations bill, Congress rejected all the Administration's proposed new starts and asserted its own prerogative to determine water spending priorities. On October 6, 1983, the House of Representatives passed a supplemental appropriations bill funding 43 water projects of its own choosing. Will you work with Congress to develop a compromise package of water projects? Will you resist efforts to shift water project costs to the states? How do you view the orderly development of river basin systems such as the proposed Yakima River Basin Project in Washington State? Can water flow regulation and storage facilities provide for multiple needs: fishing, irrigation and incidental small scale hydroelectric power?

14. Secretary Watt characterized Indian reservations as "disastrous experiments in socialism." Will you oppose proposals which call for termination of Indian reservations? Will you give our Native Americans the personal choice to leave or remain on the reservation, with a commitment that, if they remain, the federal government will honor its trust responsibilities to provide adequate health, education, and other opportunities which are afforded to all other Americans?

15. Secretary Watt promulgated administrative regulations which liberalized economic development activities in the Alaskan D-2 wilderness area. Will you rescind these regulations? If not, will you expand development activities in the D-2 area?

16. The Senate Energy and Natural Resources Committee recently reported to the Senate a bill which would give the Bureau of Land Management authority to sell excess wild horses and burros from the nation's range lands. The Committee's intent, however, was for the Secretary of the Interior to vigorously pursue alternatives prior to exercising sale authority. If the bill passes both houses of Congress, what steps will you take to promote the Bureau's adoption program prior to exercising sale authority?

Questions by Senator Daniel J. Evans
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17. Secretary Watt's appointees, and the people advising him, appeared to represent a single, narrow policy viewpoint. Will you seek advice, and appointees, who are broadly representative of the American public, including those with an "environmental" perspective?

18. Do you intend to replace personnel appointed by Secretary Watt, especially at the Under Secretary, Assistant Secretary, and Director levels? Will you retain and seek out professional personnel to head the National Park Service, the Bureau of Reclamation, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and the Bureau of Indian Affairs? Will positions at resource management agencies that require technical as well as managerial competence be filled by political appointees, even though they may lack resource management experience?

19. A 1980 UCLA Law Review study of California Supreme Court rulings during your tenure on the court characterized your judicial opinions as "markedly development-oriented." The Sierra Club Legal Defense Fund charges that you dissented on 11 of 12 pro-environmental court decisions. How would you characterize your own judicial decisions on environmental matters? As Secretary of the Interior, and as a policy maker, would you approach environmental issues differently that as a California Supreme Court Judge?

20. Given a potential leasing decision, with all other considerations being equal, will you favor the side of environmental preservation or the side of economic development? Can you give me your philosophical views in making such a decision?

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The CHAIRMAN. Thank you very much. We have those of our colleagues who do not serve on this committee who desire to be here to introduce to the committee the man who has been nominated by the President for this office and who wish to make their own independent statements, and I wish to welcome them and also to express my appreciation for their courtesy and their interest in this matter as well as their patience in allowing the members of the committee to state what are to them important truths for us to consider as we go forward.

First of our witnesses, and perhaps I should ask the three congressional witnesses to come forward together, is a man who needs no introduction to any American anywhere and probably not to any citizen of the world aware of world politics and affairs over the last several years, Senator Goldwater; Senator Wilson, one of the most junior members of the Senate but who 30 or 40 or 50 years from now may occupy the same position as Senator Goldwater does; and Congressman Lagomarsino, a colleague from the other side of the Capitol, but most welcome before this committee.

Senator Goldwater.

STATEMENT OF HON. BARRY GOLDWATER, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator GOLDWATER. Thank you, Mr. Chairman. I appreciate the opportunity to be with you today for the hearing on Judge William Clark to be Secretary of the Interior.

I would like to begin this discussion by asking what we might call a simple but a sensible question—where in the world would you find one person who has had experience in every facet of all the areas covered by the Department of the Interior?

I will tell you—you simply won't find a person like that. Therefore, the next best thing is to look for a person who has good, sound judgment and a reputation for success and for being able to get people together and settle arguments.

Now Bill Clark is this kind of a man, and he has proven it time and again. In addition to all of this, and I consider it a basic requirement, Bill Clark comes from a long line of people who have been engaged in ranching and farming, and contrary to what my friend has said about this, it not being too important, I know of no better way to understand the vagaries of water, land, and multiple use than to have this as a background.

At this point, let's look at President Reagan's policy on Interior matters, and I know this will stand in direct defiance of members of the Sierra Club, a club of which I was once a member, and other organizations in this country dedicated in their minds to the perpetuation of the land as it is. There is no one living who is more careful or more considerate or who more jealously guards nature than I do, but at the same time, I as an American recognize that if this country is going to continue to grow, there has to be multiple use of some of the land controlled by the Federal Government and that to me is the basic idea of President Reagan's policy.

Mr. Chairman, I am submitting with this paper a list of materials that we depend upon from other countries. We must recognize that most of these other countries are under the direct or indirect

control of the Soviet Union. We need these basic minerals and metals to even think of making aircraft, weapons, and a lot of other items which are part of our everyday life. Now doesn't it make some sense to allow some people in this country with the money and the ability to drill a hole here and there in our land to see if we might find some of these minerals that we do not have now?

A quick glance at the table which I am asking be included with my remarks will give you some idea of the problems we face. While the use of the land and water is critical though, they are not the only responsibility of the Department of the Interior. One of the major responsibilities the Department has are the forgotten Americans—the Indians.

It rather pains me, in fact, it is definitely a sore point to hear some people complaining about Jim Watt's and about President Reagan's attitude toward the Department's policies and then with the next breath worry about the civil rights of people living in Central America, Africa, Indochina, and so forth while right here in our own country we have probably close to 800,000 people who have no civil rights at all and who have few possibilities in a general way of becoming educated and who do not even have decent roads on their reservations to travel over, and in many cases do not have hospitals, yet these people who want to keep the land forever as it is also want to keep the Indian forever as he is.

I think one of the great things that this administration has done is at least to start—I say start—in the direction of discharging our moral duties to these people we call Indians. These people were Americans a long time before any of our ancestors ever thought of coming to this country, and Mr. Chairman, one of the major points in my mind in Bill Clark's favor is the fact that he is a westerner. While this may sound parochial, and maybe it is, the truth is that east of the Mississippi River many States in this country have absolutely no contact with the Department of the Interior.

On the other hand, Western States are practically controlled by this Department. For example, in Arizona, we have 26.1 percent of our land in Indian reservations, and the Federal Government controls another 44.1 percent, while the State owns 12.8 percent. This leaves 17 percent of 113,417 square miles of land for private ownership, and that, Mr. Chairman, is our source of taxes.

I don't believe that anyone would agree that you can continually support a State with that little acreage in a State which is one of the three fastest growing ones in the Nation.

Now at this point I would like to make another addition to my statement by including a paper entitled, "Arizona Land Ownership." This will let my friends in Congress who come from States untouched by Interior but who have residents and who are so vociferous about the Department of the Interior and how it should be run get a better idea of why we westerners feel the importance of the Department.

As I said earlier, this is a big plus in considering the nomination of Bill Clark to be Secretary of the Interior.

In closing, I wish to comment on those people who pillory James Watt and President Reagan's policies when he performed, in my opinion, the best job of Secretary of the Interior that we have had

in many years. We have had some good Secretaries and we have had some terrible Secretaries, but James Watt was at least trying to do the things that the Interior Department was set up to do.

Now returning to Bill Clark, I can assure you, Mr. Chairman, he will provide all the skills necessary to handle the Interior Department in a way that will bring pleasure and advantages to the great majority of the American people.

I urge that the committee report his nomination favorably and then I will urge the Senate to take favorable action on him also, and I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Goldwater.

[The material submitted by a Senator Goldwater follows:]

STRATEGIC MATERIALS 1975-1978 TIME PERIOD AND MAJOR U.S. SUPPLIERS

Material	U.S. Import	Major U.S. Suppliers
Columbium	100%	Brazil (67%), Canada (9%), Thailand
Mica (sheet)	100%	India(80), Brazil(8), Madagascar(3)
Strontium	100%	Mexico (96), Spain(4)
Titanium (rutile)	100%	Australia(88), Japan(5), India(4)
Manganese	98	Gabon(23), South Africa(20)
Tantalum	96	Thailand(31), Canada(15), Malaysia
Bauxite/alumina	93	Jamaica(33), Australia(27), Guinea
Chromium	90	South Africa(44), USSR(12)
Cobalt	90	Zaire(41), Zambia(10), Canada(5)
Platinum-group	89	South Africa(50), USSR(22)
Asbestos	85	Canada(96), South Africa(3)
Tin	81	Malaysia(55), Thailand(16)
Nickel	77	Canada(54), New Caledonia(8)
Cadmium	66	Canada(22), Mexico(13)
Potasium	66	Canada(94), Israel(3)
Mercury	62	Algeria(23), Yugoslavia(9)
Zinc	62	Canada(48), Honduras(3)
Tungsten	59	Canada(23), Bolivia(15), South Korea(9)
Gold	56	Canada(43), Switzerland(20)
Titanium (ilmenite)	46	Australia(55), Canada(42)
Silver	45	Canada(37), Mexico(24), Peru(15)
Antimony	43	South Africa(34), Bolivia(11)
Barium	40	Peru(30), Mexico(12), Morocco(9)
Selenium	40	Canada(46), Japan(21), Mexico(6)
Gypsum	33	Canada(74), Mexico(20), Jamaica(4)
Iron ore/scrap	28	Canada(54), Venezuela(21), Brazil
Vanadium	25	South Africa(57), Chile(25)
Copper	13	Canada(25), Chile(24), Zambia(15)
Iron/steel products	11	Japan(43), Europe(37), Canada(10)
Sulfur	11	Canada(55), Mexico(45)
Cement	10	Canada(50), Mexico(10)
Salt	9	Canada(34), Mexico(26)
Aluminum	8	Canada(60)
Lead	8	Canada(28), Peru(17), Honduras
Pumice/volcanic cinder	4	Greece(82), Italy(18)

ARIZONA LAND OWNERSHIP

	ACRES	PERCENT OF TOTAL
Private	12.3 million	17
State	8.9 million	12.8
Indian Reservation	19.1 million	26.1
Federal	31.9 million	44.1

Federally-Administered Land in Arizona by Agency

AGENCY	ACRES	PERCENTAGE OF STATE'S TOTAL LAND
Department of Agriculture		
Forest Service	11,270,714	15
Soil Conservation Service	46	*
Science Education Administration	18	*
Department Subtotal	11,270,778	15
Department of The Interior		
Bureau of Land Management	12,505,395	17.2
National Park Service	1,901,177	2.7
Fish and Wildlife	1,538,782	2
Bureau of Reclamation	1,005,865	1.3
Bureau of Indian Affairs	90,426	*
Geological Survey	173	*
Department Subtotal	17,041,818	23.2
Department of Defense		
Air Force	2,588,484	3.5
Army	991,508	1.4
Corps of Engineers	34,532	*
Navy	2,455	*
Department Subtotal	3,616,979	4.9
Other Federal Agencies		
Federal Aviation Administration	588	*
Veterans Administration	305	*
Department of Justice	258	*
Department of Energy	70	*
Federal Communication Command	131	*
General Services Administration	81	*
U. S. Postal Service	67	*
Department of State	135	*
Department of Health and Human Services	52	*
Subtotals	1,687	
TOTALS	31,931,262	44.1

* Less than 1 percent

U.S. DEPARTMENT OF THE INTERIOR
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The CHAIRMAN. Senator Wilson.

STATEMENT OF HON. PETE WILSON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator WILSON. Thank you, Mr. Chairman.

Mr. Chairman, it is my great pleasure and privilege to be here today before this distinguished committee and particularly so because it is my honor to introduce to you Judge William P. Clark, President Reagan's nominee as Secretary of the Interior.

Bill Clark, of course, is familiar to many of you. He has made public service his career, and as we well know, served this President and his country first at the State Department and then as the President's National Security Adviser.

In both these demanding roles and before that as a distinguished justice of the supreme court in the State of California, Bill Clark has been and as Secretary of the Interior will be not just equal to the challenge posed, but true to the credo of Theodore Roosevelt who said, "I wish to preach, not the doctrine of ignoble ease, but the doctrine of the strenuous life."

Clearly being Secretary of the Interior is no life of ease.

The stewardship of America's environment and natural resources is a challenge far more critical than even in Theodore Roosevelt's day.

As a westerner, as a rancher, a lifelong outdoorsman, Bill Clark will bring to his new responsibility at the Interior Department a love of the land and an understanding of it, an instinct for husbandry of resources, and most important, an unyielding sense of duty to the public.

The windmills and solar panels on his own ranch reveal a man careful as well as creative in the management of his own resources who will be careful and creative in his management of the public resources. He comes from California where immense Federal ownership of land as in other Western States imposes upon the Department of the Interior the difficult and important responsibility to balance the public interest in careful management of sensitive public lands with the public interest in careful management of public resource development.

Mr. Chairman, Judge Clark is ready, willing, and well qualified to accept this responsibility.

He is qualified by years of valuable experience as well as by temperment to make reasoned, fair and sensitive judgments.

As then Governor Reagan's chief of staff, he played a central role in the establishment of the California Resources Agency, California's counterpart to the Department of the Interior, and the agency responsible for enforcement of the landmark California Environmental Quality Act.

In his capacity as a California Supreme Court justice, Judge Clark decided numerous complex and difficult questions of environmental law.

More important than this valuable administrative and judicial experience is what I will term judicial temperment. Judge Clark exhibits the lifetime habit of gathering evidence, making an objective analysis, then deciding fairly on the merits.

He is a strong philosophical conservative possessed of firm convictions, a great many of which I share—not that we will always agree.

We won't, but I know that his decisions will be scrupulously fair, careful and honestly made in his perception of the public interest.

An important measure of this fairness of mind is his demonstrated willingness and his demonstrated commitment to open communication. His willingness to communicate with all factions of a broad spectrum of the public has been described by the San Francisco Chronicle as, quote, "important and significant."

Mr. Chairman, Bill Clark doesn't shout. He is a quiet man. He listens carefully, thoughtfully.

He has already met with the leaders of the environmental community in order to establish a constructive dialog on the management of our Nation's natural resources, a dialog both necessary and conspicuously sadly absent in previous administrations of the Interior Department. I can only hope that his fairness and openness are reciprocated. If they are, a time of healing and wholesome cooperation may be at hand.

At the very least, Mr. Chairman, those who do not reach agreement with him will be compelled to concede that in Bill Clark they have dealt with a man of uncommon and unimpeachable integrity. That is his unblemished record as an administrator, as a judge, as a National Security Adviser. He is a man of firm conviction. He is a man who makes decisions on the merits as he sees them, and first and last, he is a man of his word.

Listen to his former colleague Justice Stanley Mosk in this assessment of Clark contained in a letter to Senator Alan Cranston, and I quote, "Bill Clark and I differed on results in cases before our court a good many times, but I never had cause to doubt his honesty, the sincerity of his convictions, his industry, or his capability. He is essentially a kind, decent, thoughtful human being. He studies hard and learns fast. I am convinced he will be a faithful public servant in any responsibility given to him by the President," and certainly that confidence has been vindicated in Judge Clark's two prior incarnations and will be in this third one.

I point out that Justice Mosk is himself a strong philosophical liberal, a respected jurist, a man whose own integrity is unquestioned, and a man who is in a good position to judge that of others, even those with whom he disagrees.

It is well known that the President especially prizes Judge Clark's integrity, his judgment, his loyalty and his dedication. Judge Clark is one of President Reagan's most trusted advisers, and confidants—deservedly so.

Mr. Chairman, for more than 15 years I have known, closely observed, worked with and admired Bill Clark. He is a fine choice for this important job. His quiet strength will allow public attention to shift from personalities to policy as indeed it should.

Mr. Chairman, it is with great pride, confidence, and conviction that I commend to you President Reagan's nominee to serve as Secretary of the Interior—Judge William P. Clark.

The CHAIRMAN. Thank you very much, Senator Wilson. Congressman Lagomarsino.

STATEMENT OF HON. ROBERT J. LAGOMARSINO, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. LAGOMARSINO. Thank you, Mr. Chairman. Mr. Chairman, members of the committee, it is a privilege and an honor for me to appear before you today in support of President Reagan's nomination of Bill Clark to be Secretary of the Interior.

I feel very personally privileged to do so, not only because Bill grew up in my congressional district where he and his family are well known and highly respected, but because it was partly at my suggestion that Bill agreed to take his first paying job in politics, that of cabinet secretary for Governor Reagan some 16 years ago. The rest as they say is history.

During the 16 years that I have known Bill Clark in an official capacity, to say nothing of the time before that, as a State Senator, serving in Sacramento when he was chief of staff, and prior to that cabinet secretary to Governor Reagan, and during the time that I have served here during President Reagan's term, I have known Bill Clark in my capacity on the Foreign Affairs Committee first as an Assistant Secretary of State, and then later as National Security Adviser. I have had the opportunity of witnessing firsthand his integrity, his competence, and his good humor on the job—assets he will certainly need if past events are any indication.

Bill is not only an outstanding manager and administrator, bringing as they say order to chaos in his previous posts. He is an outstanding individual—talented, quick, compassionate, and thoroughly committed to his work. He has repeatedly confounded his critics, though with performance rather than with rhetoric. His own modesty prevents him from claiming knowledge of areas where he has not made his mark, but there is no field he has entered in his public career where he has not performed with distinction.

He has a knack for assessing a situation, breaking it down into its components, and logically responding. He brings a practical, principled perspective to things that may be rare in this profession, whether as the Governor's chief of staff, on the bench, or at the head of a policymaking department or group.

I don't know where he got this incisive eye and ear. Maybe it was as a westerner and rancher, but his father was chief of police and his grandfather was a sheriff in our county, and Bill Clark knows the responsibility of being a stewart, of balancing competing needs and goals and ideas, and he is not afraid to make decisions. What's more, he takes into consideration the best interests of all the people in his decisions with a full awareness of their impact at every level—local, State, and Federal.

He has won the endorsement of local voters after his judicial appointment and the praise of his colleagues on the bench in higher courts, as Senator Wilson has pointed out.

He has dealt ably and fairly with complex issues of the environment and natural resources, balancing private rights and the public good, and he has accomplished all of his remarkable career without becoming arrogant or distant from his roots. His actions are marked with restraint, careful consideration and intellectual honesty. He will not dissemble or pretend to be what he is not. He

will consult with Congress and with the committees in a spirit of cooperation rather than confrontation, and I might add, Mr. Chairman, that something that isn't always present is certainly very present in Bill's case. He has a very devoted wife who is behind him in all of his endeavors and is fully supportive.

I have no hesitation whatsoever in recommending to you and to the Senate of the United States the confirmation of Judge Bill Clark.

The CHAIRMAN. Thank you very much, Congressman, and I think the testimony of someone who has known him as long as you have and from whose community he comes——

Mr. LAGOMARSINO. I didn't mention that we think we are even related, very distantly.

The CHAIRMAN. I won't make any flippant remark about whether that would help him or hurt him. But I do appreciate the testimony of people who have known him and I think that does speak eloquently for him.

Senator Wilson, I want to particularly thank you for your statement, and I think your statement has served the people of your State very well in presenting this man to this committee from the standpoint of the people he has lived with and worked with for many years. I appreciate your statement.

Senator WILSON. Thank you, Mr. Chairman.

The CHAIRMAN. I assume there are no questions of these witnesses. If there are any, I will open it up for those questions.

[No response.]

The CHAIRMAN. Thank you very much for your statements this morning. Congressman Synar of Oklahoma has asked his letter to me be made a part of the record, and it will be made a part of the record at this point.

[The letter follows:]

MIKE SYNAR, OKLA., CHAIRMAN
ROBERT E. WISE, JR., W. VA.
BARBARA BOXER, CALIF.
BILL LEVINE, CALIF.
JOE KOLTER, PA.
TOM LANTOS, CALIF.

LYLE WILLIAMS, OHIO
WILLIAM F. CLINGER, JR., PA.
LARRY E. CRAIG, IDAHO

MAJORITY—225-5427
MINORITY—225-3738

NINETY-EIGHTH CONGRESS

Congress of the United States
House of Representatives

ENVIRONMENT, ENERGY, AND NATURAL RESOURCES
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-371-B-C
WASHINGTON, D.C. 20515

October 31, 1983

Honorable James A. McClure
Chairman
Committee on Energy and
Natural Resources
U.S. Senate
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for extending me the courtesy of scheduling my testimony on the nomination of the Honorable William P. Clark to be Secretary of the Interior.

As I indicated in my letter of request, I planned to describe the policies and practices of the Department of the Interior which have seriously restricted the ability of the Subcommittee on Environment, Energy and Natural Resources to fulfill its oversight responsibilities to Congress and to the public.

As a matter of courtesy, I also notified Judge Clark of my request to testify and the purpose of my testimony. Since then, I have spoken with him twice by telephone. He has given me his word that the Subcommittee will not face the access problem that it has faced in the past.

As a result of our conversation, I am satisfied that Judge Clark is acting in good faith; therefore, I feel at this point that it is unnecessary to testify. However, I would greatly appreciate your inclusion in the record of the confirmation hearings a copy of the enclosed letter to Judge Clark.

Again, thank you for your courtesy. It is most appreciated.

Sincerely,

Mike

MIKE SYNAR
Chairman

MIKE SYNAR, OKLA., CHAIRMAN
ROBERT E. WISE, JR., W. VA.
BARBARA BOXER, CALIF.
MEL LEVINE, CALIF.
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WASHINGTON, D.C. 20515

October 31, 1983

The Honorable William P. Clark
Secretary of the Interior - Designate
The White House

Dear ~~Judge Clark~~: Bill

Thank you for calling me last Friday and again this morning to discuss my letter to you concerning the difficulties this Subcommittee has had in obtaining access to Interior Department information and employees. I very much appreciated your taking time from your busy schedule to talk with me about this matter.

I particularly appreciated, of course, your personal commitment to me that under your leadership the Interior Department will respond to Subcommittee inquiries in the same manner as we have established with other departments and agencies under our jurisdiction. Your assurance of cooperation from the Interior Department in the conduct of our oversight is a welcome prospect and is greatly appreciated.

Specifically, the Subcommittee enjoys the following arrangements with other departments and agencies and they have served both the Subcommittee and the Executive Branch well:

(1) Subcommittee requests are complied with in a timely and complete manner. Legitimate difficulties on the part of the department or agency in meeting a Subcommittee request are resolved informally by staff.

(2) Subcommittee staff are permitted to review files at the agency or department and are provided with copies of documents they request. We have found this procedure generally to be more convenient and efficient for the departments and agencies, as well, in that it often relieves them of the requirement that all relevant documents be copied and forwarded to the Subcommittee.

(3) Subcommittee staff are permitted to interview employees, by telephone or in person at the department or agency, as necessary. Such interviews are arranged at mutually convenient times.

(4) The department or agency makes available for testimony at Subcommittee hearings such employees as the Subcommittee may request; the department or agency may, however, specify who will speak officially for the department on matters of policy.

(5) Any department or agency concern over public disclosure of certain documents, such as those pertaining to pending litigation or enforcement activities, are, whenever possible, resolved through negotiation between the Subcommittee and the department or agency.

Only on rare occasion has any difficulty arisen and we have always been successful in working out a mutually acceptable resolution with the department or agency in question.

These procedures have resulted in arrangements whereby the Subcommittee can carry out its Constitutional and Congressional responsibility and by which the departments and agencies within our jurisdiction can efficiently and cooperatively comply with the Subcommittee's need for information.

Should these procedures cause some concern on your part, please let me know this afternoon.

As I indicated during our conversation this morning, I look forward to meeting with you following your confirmation by the Senate. At that time, we will have an opportunity to discuss this matter in more detail and to get to know one another.

Thank you again for calling me and for your personal commitment of cooperation with the Subcommittee.

With warm regards.

Sincerely,

Mike

MIKE SYNAR
Chairman

The CHAIRMAN. With that, we will call upon Judge Clark. Judge Clark, the rules of the committee require that all nominees who come before the committee be sworn. Will you raise your right hand?

[Whereupon, William P. Clark was duly sworn by the chairman.]

The CHAIRMAN. Please be seated.

Before you begin with your statement, there are four questions which we always address to witnesses before this committee who are nominated for positions within the administration, and I would like to ask these questions of you at this time.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to Congress?

Judge CLARK. I will, Mr. Chairman.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Judge CLARK. I have none, Mr. Chairman.

The CHAIRMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Judge CLARK. I am not aware of any information of that sort, Mr. Chairman.

The CHAIRMAN. Are you involved with or do you have any assets held in blind trust?

Judge CLARK. I have none.

The CHAIRMAN. Mr. Clark, we have your prepared statement. You may proceed in whatever manner you see fit at this point. Your prepared statement will be put in the record in full. If you desire, you may deliver it as prepared.

STATEMENT OF HON. WILLIAM P. CLARK, NOMINEE TO BE SECRETARY OF THE INTERIOR

Judge CLARK. Thank you, Mr. Chairman. I would also thank the witnesses today who introduced me—Senators Goldwater and Wilson, Congressman Lagomarsino. I deeply appreciate the comments from the bench concerning the issues confronting us today, and the necessity for questioning in the area of background and experience.

On your offer, Mr. Chairman, to read my statement, I would dispense with reading the whole statement. I would, however, for the benefit of those here today, like to go to what I would consider the heart of that statement.

When I occupied the No. 2 position at State for a year with Al Haig and during my 2 years at the White House as national security adviser, I befriended or perhaps was befriended by a man I considered to be the epitome of bipartisanship in the area of national security. In the areas of our defense budget, Central America

and nuclear arms reduction I had frequent and open communication with your former member and former chairman, Senator Henry Jackson, from the State of Washington. I did not, of course, in those responsibilities have the opportunity to follow his approach or votes in areas involving Interior or this committee, but in reading transcripts of prior hearings I did come across the statement that he made in confirmation hearings of 3 years ago, and I would like to repeat part of that today. It is in my prepared statement, by the way, Mr. Chairman. If I may amend that statement, I noticed late last night the word "epitomize" is misspelled, and I apologize.

I sense that this approach to bipartisanship will likewise be carried on by Senator Jackson's successor, Senator Evans with whom I had the great pleasure and honor of dealing in 1967, 1968—it was then Governor Evans—on issues some of which we will be considering today—water, boundaries, lumber, et cetera. So if I may be permitted to read just part of Senator Jackson's earlier statement, Mr. Chairman?

The CHAIRMAN. Certainly.

Judge CLARK [reading]:

In the past two decades, the role of the Secretary of Interior has changed dramatically. The Secretary is no longer the guardian of narrow western regional interests. Now under laws enacted by Congress, he is the steward for all Americans of much of our national land heritage, including our national parks, wildlife refuges and public lands. He is a manager of nationwide programs for outdoor recreation, restoration of lands affected by coal mining, historic preservation, and mineral and water resources. His decisions on energy and environmental matters affect the interests of every American. Today with the growing need to develop the energy and mineral resources of the public lands and the Outer Continental Shelf, the Secretary of the Interior and the entire Department are challenged to provide for wise use without sacrificing vital environmental interests. This effort will require a high degree of competence, careful planning, constant effort to achieve a balance between development on one hand, preservation on the other, and complete integrity in the decision-making process.

Just as importantly, the Secretary and the entire Department must recognize the fact that the good old days of few users and little or no constraints are gone forever. This is particularly true with respect to use of the public lands. I am not saying that current programs should go unchanged. Changes and innovations are certainly in order where there are weaknesses. I am saying that there are certain principles established by Congress which must be followed.

One, decisions based on land use planning, with ample public participation; two, maximum protection of the environment; three, receipt of fair market value for private use of public resources; and four, close cooperation with State and local governments and local citizens.

The Senator went on to say:

Much of the recent complaints from traditional users about public land management stem not so much from new rules of the management game but from the fact that there are many new players. Increasing scarcity of basic commodities, a rapid shift of the urbanized population center of the Nation to the West and South and a growing appreciation for environmental values have increased pressures for such competing purposes as energy production, urban growth, recreation, and wilderness preservation. As a result, there are new definitions of public interest, new constituencies to be served, and new claims on the resources of the public lands.

In enacting the Federal Land Policy and Management Act of 1976, Congress recognized this evolution of demands, values and attitudes. That act established the national policy that the public lands would be managed under the principles of multiple use and sustained yield. The act tells the Secretary to recognize the "Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands." It also tells him to "preserve and protect certain public lands in their natural condition."

Mr. Chairman, as you suggested and we heard from your colleagues this morning, experience and background are particularly relevant to your considerations today in considering my qualifications. So I will take just a minute to go through those. As has been suggested by Senator Melcher, at issue would certainly be my own backyard and my farming experience.

I think that those who anticipate the possibility here, if I am confirmed, of me managing their lands, might be interested in how we manage our own family farm. However, before that, I might reach a little farther back to mention that my grandfather, Robert E. Clark, was appointed by another man whose name has been mentioned several times this morning—President Theodore Roosevelt—as one of the first forest rangers in the United States Forest Service in the year of its creation, in the Los Padres National Forest.

As the eldest grandchild, I am custodian of his diaries and photographs of that very interesting era which I would at any time share with the committee. It is a great commentary on the first days in southern California and the one-stop forest ranger or inspector. My grandfather, in that capacity, did everything, as his diaries reveal, from delivering babies to clearing trails, and finally to being sent by President Roosevelt to the northern part of the San Fernando Valley to settle the infamous Jenkins-Carmichael dispute in which 23 men had been killed over water and land rights.

We are proud of that era. My father likewise was a U.S. forest ranger for 3 years spending his summers on horseback while at college. Moving forward to my own childhood for just a moment, I lived on two small ranches, the first not owned by us. That ranch along with my two-room school house, is now under 30 feet of water in a reclamation project known as the Casitas Dam and Reservoir. I remember many years when our schoolteacher tried to calm our fears, stating that if that dam did come about, it would be for the balanced benefit of all.

We didn't believe her then but I believe her now. She died long ago. She might have been happy to know that part of this summer's international Olympics in southern California will be held on that same lake.

We later moved to a sheep and cattle operation in northern California, my father being a cattleman. Guess who wound up with 4,400 head of sheep? I had the exclusive control and management over that band of sheep during summer's on the eastern slopes of Mount Shasta in the national forest—5 and 6 months a year.

After World War II we were unfortunate enough to lose that operation, and I proceeded on to school. Two years of college undergraduate work was sufficient to allow me to be admitted to law school in Los Angeles. After my first year I was drafted and was called out to join Senator Hecht's counterintelligence unit in Western Europe where I met my wife, Joan. Thereafter, I returned to law school, attending night classes in Los Angeles. We began our family and looked toward the future as a sole law practitioner.

I did not finish law school. I had to drop out and finish my studies on my own, passing the bar on the second attempt. After about 8 years of law practice I used earnings to acquire a family farm in

central California, San Luis Obispo County. At this point, Mr. Chairman, may I describe that farm at the suggestion of Senator Melcher earlier this morning?

The CHAIRMAN. Yes.

Judge CLARK. I look upon it as somewhat of a wildlife refuge. I put in 3 miles of dirt road in the bottom of the canyon rather than cutting the top of a ridge. I developed our springs and we pump our water by windmill up a hill from which it flows down to our home, in part warmed by the Sun. We plant, Senator, only half of that farm each year, letting the other half lie fallow, and we raise barley and cattle. We have quail, dove, ducks, and deer. We take no game. We allow none to be taken.

The farm is held in a family trust for the benefit of our children, and it is also in a preserve, which disallows subdivision or development of those 888 acres.

My wife and I have retained 2 acres, including the house and an orchard where I planted two of every variety of fruit tree that will grow in the region. If there are no questions concerning our ranching operation, where I hope to return someday, I will proceed.

My law practice ended when I moved to Sacramento where, as Senator Wilson—who was then an Assemblyman—has pointed out, I was first Cabinet Secretary, and then executive secretary or chief of staff for 2 years for then Governor Reagan. In those positions, I dealt with some of your colleagues, then Governors Evans, Chafee, and Laxalt, and the issues that we described. As Senator Wilson said, we had an agency comparable to the Interior Department known as the department of resources in which we were confronted with, and I believe efficiently resolved, many tough issues, such as highways proposed for cutting through the Sierras, the Dos Rios Dam project over which we had a great debate between our department of agriculture and the department of resources, concerning resource for sales and development.

We had a water project, then the largest in the world, which was literally bankrupt when we arrived in Sacramento. Through careful management that project is, for the most part, complete at this time.

In the area of management, I coordinated the activity and the policy of the Reagan administration involving 110,000 employees in the executive branch. We reorganized it, consolidating and narrowing. At that time it was referred to as the sixth largest economy in the world. I believe it still is. That reorganization is still intact. Governor Brown continued under this basic structure for 8 years, and I understand, Governor Deukmejian is continuing with the same structure.

After 2 years in Sacramento, the Governor appointed me to the superior court in our county where I dealt, as a trial judge, with most of the issues later confronted on the appellate court, including condemnation cases involving transmission lines for the Diablo nuclear facility. These cases taught me a little something about fair market values. I know you are interested in fair market values from another perspective.

After my first several court trials I suggested we bring litigants together in chambers where we settled many cases during my 2 years on the trial bench.

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The Governor next appointed me to the court of appeal where I served 2 years and reviewed many of the same type of cases. Then Governor Reagan elevated me to the State supreme court where I spent 8 years and wrote some 344 opinions, the majority of them being dissents.

Moving on to the early days of this administration, President Reagan asked me to assume the No. 2 position at State Department where again I played judge several times a day as the in-house manager while Secretary Haig handled what we might call the Department of the Exterior with 23 bureaus. There competition was not unlike the competition we see among the 10 bureaus in the Department of Interior today. Additionally, I chaired or led the American delegation to Paris for the OECD Conference in 1981. I also led the American delegation on the International Energy Conference also in Paris at the same time. I was sent by the President and Secretary Haig to southern Africa to help implement our southern African policy. This relates, in part, to the strategic importance of that area to us and to the Soviet Union in terms of metals and other strategic and critical materials.

I also chaired many senior interagency groups, including those dealing with the then proposed Law of the Sea Treaty which had been 11 years in the process. That interagency group determined it was not in our national interest to go forward with that proposed treaty, that there must be an alternative. As part of our policy we believe we have found that alternative in the exclusive economic zone, a 200-mile extension of our jurisdiction beyond the Continental Shelf to allow consideration of deep seabed mining that we felt was threatened in the proposed Law of the Sea Treaty.

At the same time, I coordinated the interagency activity on Micronesia and on acid rain. These are other issues that, if confirmed, I would have to revisit, not only as Secretary of the Interior but as Chairman of the Cabinet Council on Resources and the National Environment.

While at the Department of State I was asked by the President to move to the White House as National Security Adviser where many of the same issues were considered.

Additionally I chaired the National Strategic Telecommunications Board. I chaired the Emergency Mobilization Preparedness Board involving coordination of 23 agencies in the Federal Government. This required consideration of oil reserves, strategic petroleum reserve, and the area of critical and strategic materials, 24 of which we must rely upon foreign countries, not all friends, for over 50 percent of our needs.

I suppose I have taken more time, Mr. Chairman, than you had in mind. I will stop there unless there are specific questions that you have, Mr. Chairman.

[The prepared statement of Judge Clark follows:]

STATEMENT OF HON. WILLIAM P. CLARK, NOMINEE TO BE SECRETARY OF THE INTERIOR

Mr. Chairman and Members of the Committee, I am pleased to appear before you today as the President's nominee as Secretary of the Department of the Interior. I am hopeful to be found qualified to serve in this position and if so, I will be eager to work with this and other committees of the Congress in an effort to resolve important issues confronting all of us.

The heart of my statement today was written by your former distinguished member and Chairman. It is a message for all of us as we convene to consider the nomination of a Secretary of the Department of the Interior. Senator Henry M. Jackson wrote on January 7, 1981:

> In the past two decades the role of the Secretary of the Interior has changed dramatically. The Secretary is no longer the guardian of narrow Western regional interests.
>
> Now, under laws enacted by Congress, he is the steward, for all Americans, of much of our national land heritage, including our national parks, wildlife refuges, and public lands.
>
> He is manager of nationwide programs for outdoor recreation, restoration of lands affected by coal mining, historic preservation, and mineral and water resources. His decisions on energy and environmental matters affect the interests of every American.
>
> Today, with the growing need to develop the energy and mineral resources of the public lands and the Outer Continental Shelf, the Secretary of the Interior and the entire Department are challenged to provide for wise use without sacrificing vital environmental interests.
>
> This effort will require a high degree of competence, careful planning, constant effort to achieve a balance between development and preservation, and complete integrity in the decision-making process.

Just as importantly, the Secretary and the entire Department must recognize the fact that the good old days of few users and little or no constraints are gone forever. This is particularly true with respect to use of the public lands.

I am not saying that current programs should go on unchanged. Changes and innovations are certainly in order where there are weaknesses. I am saying that there are certain principles established by Congress which must be followed.

One, decisions based on land use planning, with ample public participation.

Two, maximum protection of the environment.

Three, receipt of fair market value for private use of public resources.

And, four, close cooperation with State and local governments, and local citizens.

Much of the recent complaints from traditional users about public land management stem not so much from new rules of the management game, but from the fact that there are many new players. Increasing scarcity of basic commodities, a rapid shift of the urbanized population center of the Nation to the West and South, and a growing appreciation for environmental values have increased pressures for such competing purposes as energy production, urban growth, recreation, and wilderness preservation.

As a result, there are new definitions of public interest, new constituencies to be served, and new claims on the resources of the public lands.

In enacting the Federal Land Policy and Management Act of 1976, Congress recognized this evolution of demands, values, and attitudes. That act established the national policy that the public lands would be managed under the principles of multiple use and sustained yield.

> The act tells the Secretary to recognize the "nation's need for domestic sources of minerals, food, timber, and fiber from the public lands * * *". It also tells him to "preserve and protect certain public lands in their natural condition * * *."

In my capacities as Deputy Secretary of State and as Assistant to the President for National Security Affairs, my communication with Senator Jackson was frequent, open and complete in areas of our defense budget, Central America and nuclear arms reductions. To me and to many others in this Administration, Senator Jackson epitimized the best in a bipartisan approach to national security. It is thus that I take pride in my involvement in the President's naming of the USS HENRY M. JACKSON, and in the reading of my prepared statement at the launching of that newest ship of the line on September 15, 1983. That ship will soon be on sea patrol in our national defense. I also take pride in that I am today able to state Senator Jackson's bipartisan approach to issues confronting this distinguished committee and the Department of the Interior.

Those multiple mandates with which the Department has been charged, have been and will always be the source of debate and competition within the Department, within the government and within the private sector. The natural wonders of America often clothe -- or coexist with -- resources which must be tapped because they are essential to survival of government and of its people. In a world of increasing complexities, the mandates of survival and conservation become increasingly difficult to administer. The first mandate of any government is, of course, security and survival. But this does not necessarily mean that conservation must unduly suffer. A proper balance must be struck and the mandate to conserve our heritages for future generations must be weighed heavily in the balance. My private life has always brought me close to the land. No one knows or understands better than I the very special reverence one experiences in our wildernesses, our prairies, our forests, our mountains, our wild streams, and our lakes and oceans. All Americans, including future Americans, have a right to share these experiences, and I would indeed wish, in some small way, to assist in implementing that right.

I assure you that I do not see the stewardship of our resources as an opportunity for partisan politics. Certainly all responsible Americans, whatever the political persuasions, must seek a proper balance of competing interests in conserving our resources on the one hand and our needs for survival on the other. If the Department of the Interior is to better serve America and Americans, it and the Congress must join in a bipartisan effort. If confirmed, I will endeavor to effect such a joint effort.

Now, gentlemen, I will be happy to respond to your questions.

The CHAIRMAN. Thank you very much, Judge Clark. Before opening for questions, let me outline to the members and others who might be interested how I hope to proceed.

We obviously have a great deal of interest on this committee and elsewhere in the questions that will be asked and the responses given. In order to accommodate the members of the committee to the fullest, it would be my intention, after consultation with the minority, to proceed under the 10-minute rule. We will proceed on the basis of those members who have been in attendance, their time of arrival, their time of departure, as well as their seniority on the committee so that we can be fair to those who sat here during all of the remarks and hear from each of the committee members who desire to ask questions.

I will be very brief in my opening questions, Judge Clark. I notice one thing in your recitation of your background which pleased me. You didn't mention this to me as we were discussing it earlier, and I want to certainly commend you for your openness and your availability during this preparation period and the spirit of cooperation with which we have worked in preparation for this hearing today.

I very much appreciate that, and I think it bodes well for the future, as well as having laid the groundwork very firmly for a constructive hearing.

Before proceeding, I wonder if you would like to introduce your wife. That is always a pleasure to have members of the family present.

Judge CLARK. I would ask my wife Joan Clark to rise.

The CHAIRMAN. Mrs. Clark, you are very, very welcome here today. Thank you for attending. I suspect although you may not attend the hearings in this room too often, what does happen, you will have occasion to discuss with your husband and I suspect have occasion to put your arm around his shoulder once in a while and say that's all right, Bill, it'll come out all right, Bill, in spite of us up here! But I did want to comment very briefly on the fact that you saw fit to highlight in part of your background your grandfather's experience with people who were shooting each other over water rights.

I also noticed that you said when Governor Evans was the Governor of his State of Washington, not senator from that State, you had had occasion to mention water in those negotiations, which was a way of underscoring the absolute imperative that you and others in the Federal Government recognize that if you come after our water, we're going to defend it, so I don't think we have to underscore that again.

Senator Jackson and Senator Jordan, my predecessor in this seat, joined together many years ago in that bipartisan effort led by Senator Jordan which said there is not going to be interbasin transfer of water. I won't belabor that point even though it shows that we look after our resources. We will continue to do that.

Judge Clark, there is one area that has been mentioned in the press. It has not been mentioned in any of the statements here today, but I feel compelled to ask the question concerning this issue simply because it has been mentioned.

Your information form submitted to the committee shows that you have an interest in that ranch in California in your own name, and it also shows an interest through your youngest son. You also reported that your youngest son has an interest in an oil lease through that ranch interest. In addition, you have a vested interest in a California State retirement plan.

Could you explain to this committee how those two questions have been resolved?

Judge CLARK. Mr. Chairman, as I mentioned earlier, the family farm is in a family trust for the benefit of the children. The 5 children are 20 and above, and only the interest of son Paul is required to be listed respecting the farm.

We have also listed Paul's partial interest in a Phillips Petroleum lease covering some 300,000 acres in central California. This is a lease several years old from which there has been neither exploration or production. I have been advised by counsel, including counsel from your committee, that this holding does not constitute a conflict of interest if I am confirmed as Secretary of the Interior. I believe that answers your question.

As to another point, I have a vested interest in a retirement fund to which I contributed during my 12 years on the bench in California. That interest is a future retirement based on what I paid in.

I have been informed again that this will not constitute a conflict of interest in dealings the Federal Government may have, and there will be many of them with the State of California.

The CHAIRMAN. Have both these matters been discussed with the Office of Government Ethics?

Judge CLARK. Yes, Mr. Chairman. I believe there is a letter in the file giving a legal opinion on both issues.

The CHAIRMAN. Thank you very much.

Senator Johnston.

Senator JOHNSTON. Thank you, Mr. Chairman. Judge Clark, when your predecessor was before this committee for his confirmation, I asked the following question: "Will you continue to help us fight for more money in the land and water conservation fund?"

Mr. Watt's reply was, "That is a soft spot in my heart because I poured 3½ years of my life into it. You can be sure I will do what I can to carry out that program as effectively as it has been carried out in the past."

Thereupon, the Department of the Interior, the administration, for 3 straight years, fiscal year 1982, fiscal year 1983, and fiscal year 1984, proceeded to request zero dollars on the State side of the land and water conservation fund and proceeded to request only a pittance on the Federal side—$40 million, $69 million, and $65 million in fiscal years 1982, 1983, and 1984, respectively. This actually included no money for additional acquisitions, only money for inholdings and to pay off judgments.

The Congress disagreed with that policy and on the State side provided $70.6 million in contrast to the administration's request for zero funding in fiscal year 1983 and $75 million in fiscal year 1984. In fiscal year 1982 in lieu of the $40 million requested by the administration, the Congress provided $185 million. In lieu of $69 million, we provided $150 million in fiscal year 1983, and in lieu of

$65 million in fiscal year 1984, we supplied $148 million, all of that in the midst of the largest deficit in history.

If I were you and I looked at that record, I would conclude that the Congress is going to provide money for the land and water conservation fund, for park acquisitions, regardless of the administration's request. We in the Congress also feel very strongly that we ought to have money for those activities which provide matching funds for the State, such as the Bureau of Outdoor Recreation [BOR], and the Heritage conservation fund, although I think these programs have been phased out.

I am pleased to tell you that it was my amendment in fiscal year 1982 which added in the Appropriations Committee $100 million. If I have any strong advice for you, it would be to supply some money for acquisition of parks, wildlife areas, and recreation areas in this country. The people support it, the Congress supports it, and that is a very easy way for you to make some points with this committee and the American people.

What will be your attitude toward that advice?

Judge CLARK. Senator, you are not alone, of course, on this issue. It has been raised during my consultations in the past 2 weeks with you and your colleagues. As I understand, at the beginning of the administration it was the position of the Department that priorities would have to change and that perhaps a breather in the purchase of new land for national parks would have to be taken, while some catchup ball was played by improving facilities and bringing up to date deteriorating conditions within parklands we already own. That has been the agenda now for 3 years. However, in the on-going balancing process, these priorities may be reviewed and—as I think I told you, Senator, when we met—President Reagan's mandate to me, if confirmed, is to independently review what he calls the three P's—policy, personnel, and process.

This is not a new approach. It was not new for me in the several other positions I have held at the President's, or then Governor's, request. Each new Secretary of the Interior, as Secretaries Andrus, Klepp, Hathaway, Morton, Hickel, and Udall has reviewed existing priorities and exercised independent judgment on major questions such as the one that you have just referred to.

Senator JOHNSTON. Well, Judge Clark, the areas I think you are talking about are only the acquisition of parks already in existence and the expansion of those and their inholdings, is that not correct?

In other words, are you willing to look at acquisition of new parks and new wildlife areas because that is what the Congress has been behind?

Judge CLARK. Yes.

Senator JOHNSTON. As well as inholdings?

Judge CLARK. Certainly; congressional intent must always be reviewed, Senator. I believe there have been some acquisitions in the area, as you say, of inholdings, that is ownership by third parties inside existing parks, and some exterior as well in rounding out parcels. However, in my review I find that there has not been great acquisition of new parklands or wildlife refuges in the last several years. We have 417 refuges. I am not sure how many of those have been acquired in the last 3 years.

I am reminded that the first acquisition West Virginia has yet to be made. I assure you that this will be reviewed within the upcoming budget. We are only 3 months from its presentation. Obviously I have not been in on the ground floor of preparation of that budget, but I assure you, and OMB has likewise assured me, that I will have the opportunity of reviewing priorities.

Senator JOHNSTON. You just can't say that we are only going to get those areas that are already authorized because many of these new areas are under great pressure.

To give you an example from my State, there is the Saw National Wildlife Refuge which we created just a few years ago. Had we not put money in the Interior bill, over the objection of the Interior Department I might add, they would have used 40 bulldozers to convert what is one of the greatest hardwood stands. I think it is called the Redwoods of Louisiana—they would have converted that into soybeans, very rich soybean land. But by main force of obstinance we had to put that money in and get it authorized.

I could name many others. I remember we acquired the hatching area for the leather back turtle, a great endangered species, down in St. Croix and the Virgin Islands. Otherwise they were getting ready to develop that area.

The Congress is sensitive to this situation and the American people are sensitive to it, and if I were you I would recognize that Congress is going to appropriate money for this purpose anyway. Whether you think Jim Watt was a great Secretary or not his public relations left something to be desired, and that is one thing you can improve greatly, by making this announcement early on in your tenure as Secretary, and I hope you will do that.

Judge CLARK. I will consider it, Senator. I will be making no announcements on any change of policy other than to assure you that the President has requested that I review all policy and procedures. I have noted, however, that the Department has done a pretty good job in innovation and acquisition through purchases short of actual purchase, such as easements and tax incentives. It is certainly my hope that this can continue, particularly in the wetlands area which I know involves your State.

Senator JOHNSTON. While you are on that point, I do hope that the Interior Department will begin to recognize that we don't have to always purchase the land in fee, that we don't have the money to purchase in fee on everything, but that easements or zoning, and other innovative land use measures, can be used to acquire much more cheaply some of these areas where all we want to do is restrict the intensity of use. I could name a number of such areas—the Santa Monica Mountains and Seashore National Park, for example. The Congress proceeded to get the money for fee ownership for that but we simply can't afford to buy all of it. However, if we had come in with a plan to use a combination of zoning, land use, and easements, we could have preserved the essential values at an affordable price.

My time is up, Mr. Clark, but I wish you well. I think you know the temper of the American people, the temper of this Congress. I believe you can accommodate yourself to it. I hope so.

Let me just say there is no question at all that conservation, preservation, wildlife, national parks, recreation are very high pri-

orities with the American people. Even in the time of record deficits we gave that a very high priority, and I hope you will, too.

Judge CLARK. Thank you, Senator Johnston.

The CHAIRMAN. Thank you. Senator Wallop.

Senator WALLOP. Thank you, Mr. Chairman. Mr. Clark, may I compliment you on your opening statement. I would take issue with you on one thing you said in the first paragraph where it says that in the past two decades the role of the Secretary of the Interior has changed dramatically. The Secretary is no longer the guardian of narrow western regional interests, and I have been out there for more than the past two decades and I do not recall in 50 years of life that we had a Secretary who was solely the guardian of narrow western regional interests.

I do not anticipate that you will be; I didn't when I endorsed your nomination, but I do not believe that the public should be persuaded by the fact that prior to two decades ago that was in fact the case because I believe it was not.

With regard to the issue of parks, and I would say to my friend from Louisiana there are, of course, interests that are urgent in nature, and I hope you and the administration are as aware as I am that the Congress has a great appetite for authorizing national parks and precious little appetite for purchasing them.

We now have the $3 billion plus backlog of property that has been taken from Americans. It is property that has been taken from them because if they build on it they are subject immediately, or seek to build on it, subject immediately to condemnation proceedings. They cannot sell it because anybody who would buy it would be subject to the same thing.

Congress and the administrations of both parties for a long period of time have been unwilling to buy it. They have to sit there and pay taxes on it. It is worse than a taking. It is, you know, it is a sentence with fine. I do not believe that it is appropriate for this Congress or anybody else to get in the business of authorizing more of those except on the most emergency basis until we have satisfied the needs of Americans whose property we have in essence taken, and I believe unconstitutionally.

Now you know that one of my interests is and has been the area of outdoor recreation, and one of the responsibilities assigned to the Secretary of the Interior is the central role in outdoor recreation policy formation and program administration.

In light of the changes in recent recreation patterns and changes in the financial resources of Government at all levels, changes in the role being played by private recreation providers, a number of us in Congress have introduced legislation to create a new commission to consider our Nation's outdoor recreation needs and resources and to recommend to the administration and to Congress any changes needed in existing programs and policies.

Do you agree that a new recreation commission to review our national recreation policy is timely and appropriate?

Judge CLARK. Yes, Senator Wallop. I am aware of your legislation. I have not read it in its entirety but certainly I would agree that outdoor recreation is a fastmoving area, a fast growth area. Things have changed since the DJ approach of 1950, and it seems

to be an appropriate time for an objective analysis of our current needs in this area.

Senator WALLOP. I hope so. Among the areas that the Secretary administers, of course, is national parks, the Bureau of Land Management areas, and a variety of wildlife refuges and resources, and one of the things that has taken place in America now is the limitation on the public's access to those, because of their popularity and because of the job that has been done in interesting Americans in their outdoor recreation.

It is our feeling that it is time that the Government involve the private sector in some of the planning and delivery of some of the services, and we believe that a commission which involves them will tell us how. I think we have not got the money to do everything for everyone at every moment, but we do have a fantastic resource which we can deliver in high quality to the American public.

Let me ask you, if you are to be confirmed as Secretary of the Interior, would you tend to follow your predecessor's policy with respect to the acquisition of water in the West for Federal purposes, that policy having been that they acquire it according to State law and not issue it as a taking?

Judge CLARK. Senator, again we have to look at the law which in this case is quite extensive. In fact, in the bound volumes of the California Supreme Court covering the first 50 years, over half the cases involved water and the concept of State primacy over water, and in many sectors that issue is still predominant. To go to your question about following my predecessor's policy in that regard, again it will be subjected to a vast review in recognition of the basic law of State on water.

I know that we have conflicting solicitor's opinions, but the basic premise of primacy, I do not think has really changed.

Senator WALLOP. Well, I guess with my, as a nonlawyer, arguing with you, as a lawyer and a judge, I think that sometimes what is allowed under the law is not necessarily the policy. You have a choice. You do not have to use the hammer in every instance if some other tool is appropriate, and it would be my hope that in your review of policy that you are sensitive to the idea that the Federal Government has two choices. It does not have to exercise all the bite and muscle of taking of water. It can in fact acquire water as any other appropriator for most any Federal purpose. It may be a little more time consuming and a little less attractive than simply taking it from people, but as a relationship with the State, lands do have a considerable say. I think it is a good policy.

Judge CLARK. Yes, Senator. I understand the discretionary role that the Secretary must play.

Senator WALLOP. I have a series of questions which I have put forward to you from the State auditor of the State of Wyoming, and they regard the cooperative role that has been developed with the audits in the State. We were the first. I think there are five or six that have such arrangements with the Department of the Interior which have been remarkably beneficial both to the Department and to the States because we in Wyoming, I think, have spent perhaps $17 million of that cost, the Federal Government probably less than a quarter of a million, and for ourselves less than that,

too, and I would just ask you if you would respond to all of those, but in a general way, are you pleased with the idea of a cooperative arrangement in these audit programs?

Judge CLARK. Senator, I am, in both the specific area of audits and in a broader sense of a general good neighbor policy with States. However I prefer referring to it as a partnership of interests. As to the questions themselves, I would be pleased to receive them and submit answers, hopefully overnight, if you wish.

Senator WALLOP [presiding]. I do not need them overnight. You will have plenty of questions to answer in between, but prior to the time the committee meets on your appointment.

My time is up, and the next in order of recognition prepared by the chairman is Senator Bumpers.

Senator BUMPERS. Judge Clark, I was a little concerned by your lengthy opening statement quoting Senator Jackson, a Senator much revered on this committee and certainly by me. While I am pleased, I was also hoping that your opening statement would be more definitive about what you hope for the Department of the Interior. I noticed a moment ago you said that you were not prepared today to announce any policy changes. Is that correct?

Judge CLARK. Yes, Senator, that is correct.

Senator BUMPERS. Judge Clark, let me ask you this. On October 14, just a little over 2 weeks ago, Ed Meese said on the McNeil Laird show:

> The policies of this Administration inaugurated by Jim Watt and approved by Ronald Reagan will be the policies that will continue under the stewardship of Bill Clark.

Is that a fair statement?

Judge CLARK. Senator, I don't know about its fairness. I did not hear Mr. Meese, but I assure you that my mandate is from President Reagan. I take my direction from President Reagan. I communicate back directly to President Reagan. As I have stated, President Reagan has asked me to review the policies, the process, and the personnel at the Department if I am confirmed here.

Senator BUMPERS. In your discussions with President Reagan, who as far as I know has never said anything critical of James Watt, is that the only direction he gave you? Did he suggest that you just continue Secretary Watt's policies but take a lower profile, or did he suggest to you that you actually change the policies and try to tranquilize some of the genuine concerns of the people in this country?

Judge CLARK. Senator, we did not discuss profile. The President yesterday read my statement, both the portion attributed to Senator Jackson and the lengthier statement that has been submitted for the record.

Senator BUMPERS. Judge Clark, let me ask you this question. Most of the members of this committee believe either publicly or privately that James Watt was a real travesty, and yet you are saying to us that the only thing you propose to do is to review the policies of the Interior Department.

If you were sitting in my position, and you also felt that James Watt was probably one of the worst appointments ever in the history of this country, and you were looking for some change in his

policies—how would you expect me to make a determination on your fitness to serve in this job if you simply say you are going to review what has happened in the past?

Judge CLARK. Senator Bumpers, as you know from our discussion upstairs, I have begun that review. Further, I don't think it is fair for me to sit here and judge the job of Secretary Watt or any of his predecessor Secretaries. To use the vernacular, they don't work here anymore. That should in no way suggest, as I stated upstairs, that there is going to be a change in any particular area.

All I can assure you today is that there will be in depth review from an independent standpoint based on my background and experience, recognizing the competition among the 10 bureaus in the Department, recognizing the competition among the environmental groups and the necessity of listening to them. If you take the total spectrum of those groups, they are said to represent some 9 million Americans. In addition, my review will certainly include consultation with the Governors who are involved, recognizing that not just the western Governors but all Governors have their peculiar and distinct problems. Finally, and I am sure most importantly, my review will include communication right up here with this committee. That process has already begun, but at this juncture, I think it would be presumptious to announce any change in process or personnel.

Senator BUMPERS. Do you believe in the right of advise and consent which the Constitution gives Congress?

Judge CLARK. Yes, I do.

Senator BUMPERS. How do you think we ought to exercise that when you are unwilling to tell us something? We are here to determine your fitness to serve as Secretary of the Interior. The President has called you a principled man, and I am sure he is eminently correct—I don't know you that well, but I find you a very engaging person and we probably would like each other if we got to know each other better. Perhaps you are, but that is really not what we are sitting here for today. The advise and consent role is one that I take very seriously. That is one of the reasons I led the ignoble abortive effort to keep James Watt from being confirmed in the first place.

I had the strong suspicion that he had no commitment to the environment or the preservation of the public domain.

You are a lawyer. You are familiar with Alexander Hamilton: I forget the exact date, but in the Federalist Paper No. 76, he said, "As to what purpose require the cooperation of the Senate?" He was talking about the confirmation of officers.

Hamilton said it would be an excellent check upon the spirit of favoritism of the President and would tend greatly to prevent the appointment of unfit characters from State prejudice, family connection, personal attachment, or a view to popularity. He went ahead to say that, if we put this advise and consent role in the Constitution, the President would be both "ashamed and afraid to bring forward for the most distinguished and lucrative stations candidates who had no other merit than that of coming from the same State to which he particularly belonged or being in some way or other personally an aide to him or possessing the necessary in-

significance and pliancy to render them the obsequious instruments of his pleasure."

Now Alexander Hamilton was a very perceptive man, wasn't he?

Judge CLARK. I agree, Senator.

Senator BUMPERS. So how would you respond to what Alexander Hamilton said? We know you are a good friend of the President. We know he has great confidence in you. Alexander Hamilton said the President would be ashamed to send somebody like that up here. He is not, obviously, but we are here to determine whether or not this fitness quality that Alexander Hamilton talks about is relevant to you. I am puzzled by how you think we can make that determination.

Judge CLARK. Well, I will defer with respect to your citation, Senator. Certainly in the intervening years between the time that was written and now, as we sit here today there has been a great refinement in that process. The system now requires a disclosure of one's qualifications, his holdings, his conflicts. While I agree with all of this, I do not think that it was initially anticipated. Nor do I think the quote suggests the necessity for a mere nominee to announce changes in basic policy or in processes at this juncture. I will just have to stand before you on what I have presented in background rather than in foreground, with my commitment to you that the consultation and communication—and there is a difference—both formal and informal, will continue in the manner as in the other positions I have held both at State and Federal levels.

Senator BUMPERS. Judge, I must respectfully tell you those are the same things James Watt said during his confirmation hearing.

Let me ask you one other question. Was Scoop Jackson something of a hero of yours? Did you like him? Do you think he stood for decency and the right things?

Judge CLARK. Yes, I do, Senator.

Senator BUMPERS. Well, did you know he was opposed to James Watt's coal leasing policies, oil and gas leasing in the wilderness, and public land sales, the so-called privatization of public lands? Senator Jackson was opposed to, lack of funding for the land and water conservation fund. He was concerned about the impact of geothermal leasing in national parks, hunting in Alaska national parks, lack of funding for urban parks and historic preservation, and park entrance fees, and he joined me last August in trying to stop what we considered the outrageous coal leasing policies of James Watt. He also joined me in opposing the lack of competitive leasing of onshore oil and gas lands.

Now you stated generally the things that you agreed with him about which were sort of philosophical, but I've listed the specific things Scoop Jackson opposed James Watt on.

Would you also oppose those things?

Judge CLARK. No, Senator. I would have to take those issues one by one as they may confront me, if confirmed, before passing judgment. As to the first part of your question, I did not know Senator Jackson's position on those issues, but that would in no way deter me from using your terms, decency and greatness, to discribe him. As I mentioned, my experience with your colleague was over a 3-year period in the area of national security affairs from within both the State Department and the National Security Council. Cer-

tainly we took positions that were not always in exact step. With regard to each of the issues you have mentioned, they are all top issues. I presume still very much alive and I will have to take them one by one.

I think one thing that I would want to avoid, and must avoid, both here today and if confirmed, is any generalization, whether it be the pendulum metaphor or whatever. I want to take each one of those issues as the facts exist at the moment, apply the law which is created by you and the courts, and seek congressional intention on each of the areas to reach an appropriate solution.

Senator WALLOP. Senator Hecht.

Senator HECHT. Judge Clark, let's leave Jim Watt for the moment and get down to the bread and butter issues of my own State of Nevada.

In the past, many, many years ago, the BLM was very insensitive to the cattlemen and the ranchers of Nevada. The BLM had an entirely different policy than they have now. The last year especially the cattlemen, the ranchers had been hit very hard by economic rough times.

The BLM has changed their entire policy and are beginning in our State and I suppose other States to work with the ranchers because they don't need problems with the Government with economic conditions.

Would you continue this policy?

Judge CLARK. Senator Hecht, I mentioned earlier my own experience in the Lassen National Forest and the Sisqou Forest. In those days, the BLM had not come into being, if my memory serves me correctly. The BLM began in the late forties, and we were working under the old Taylor Grazing Act at that time. I am aware of your concerns, particularly in a State in which there is only 12 percent private land ownership, and it is an area of great interest based on my background and experience. It will be subject to my review, as I have mentioned earlier, because I am dutybound to do so.

Senator HECHT. In our State one of the key buzz words among the cattlemen and ranchers is the multiuse concept of public lands.

How do you feel about the multiuse concept of public lands?

Judge CLARK. Well, again, Senator, we start with the law. Multiple use is authorized. It is directed by congressional intent and so long as it is, the Secretary of the Interior, working with dedicated professionals and experts, must exercise his or her discretion in applying the multiple-use concept on a case-by-case basis, based on the facts at the moment.

The concept is here. I referred to multiple use in my opening statement and it's application in management of our Federal estate will be continued if I am confirmed.

Senator HECHT. Another important consideration is wilderness areas. Would you care to comment on that?

Judge CLARK. Senator, in my review of the past week, I find that it is one of the liveliest issues in the Department. We have some 80 million acres of designated wilderness in this country, primarily under the jurisdiction of the Forest Service.

Designated wilderness areas are rather new for the BLM. BLM manages only around 13,000 acres, and the BLM is considering some 23 million acres which are identified as wilderness study

areas. Some will go into the recommendations to the President and then hopefully up to the Congress long before the deadline that has been established by the Congress. Some 1½ million acres were removed from one wilderness study category in what the Department considers to be in compliance with existing law. There were parcels of less than 5,000 acres, and there are improvements or impediments to other parcels that would disqualify them from wilderness consideration.

Now I recognize there is disagreement and there is litigation. But, if confirmed, it will be a very high priority consideration.

Senator HECHT. At the present moment one of the major concerns in northern Nevada is air space withdrawal by the naval air station and also Army base in Utah. Now I realize you haven't had a chance to even look at anything like this because it is very recent, but as much as this air space withdrawal is over public land, BLM, the ranchers and the people of these areas feel we need someone to coordinate basically the different entities—the Air Force, the Navy, and so on and so forth.

Will you be receptive more or less to taking your Department to looking into this so that we could protect the ranchers and we have people who are very patriotic and not against the military in any way? They just want to be informed.

Judge CLARK. Senator, during my previous two positions in Washington I became aware of air space issues.

If the problem you state is within the jurisdiction of the Department, we absolutely will look at it. I would anticipate it has been looked at already by stockmen—20,000 cattlemen. I imagine the problem is in one of the bureaus right now, but I assure you we will look at it again.

Senator HECHT. We are going to hold hearings, three hearings next month, the end of this month, in our State, so perhaps by then your confirmation will be concluded and we can have a representative from your Department out there.

Judge CLARK. I shall review it, Senator.

Senator HECHT. Thank you very much; no further questions.

Senator WALLOP. Thank you, Senator Hecht.

Senator Metzenbaum.

Senator METZENBAUM. Judge Clark, I think it is fair to say that many of us on this committee have a lengthy series of questions that we would like to develop with you pertaining to your policies and your attitudes toward certain problems.

I will start off by asking you whether you are familiar with the Youth Conservation Corps that was advocated by Senator Jackson so that on public lands operated by Interior, young people might be employed and doing useful outdoor work?

Would you support that kind of program as it wends its way through the congressional process?

Judge CLARK. Senator, if the Congress speaks and the program becomes law, yes, sir.

Senator METZENBAUM. That wasn't my question. Would you support it? Would you support the concept in the congressional hearings? Because as you well know, Interior is called upon to take a position with respect to various congressional issues, and there are many on this committee, both sides of the aisle, who do support it.

But I think that the measure would fare far better if we knew that the Secretary of the Interior was behind it.

Judge CLARK. Senator, while I am aware that there are 22 major interior-related bills pending at the moment, I do not know where the Department stands on this particular issue. I assure you I will review this matter.

Senator METZENBAUM. Forgetting about the Department, how about Judge Clark? With a responsibility of this kind comes a need to call the shots. So the Department won't tell Judge Clark what to do, I assume that Judge Clark will tell the Department what to do, so my question really is whether you approve of the concept?

I am not asking you about the dollar numbers or anything. I am asking you whether you approve of the concept and a legislative proposal that spells out that concept?

Judge CLARK. Senator, as you have described the concept, I approve of it. As I hear it here today, there are no negatives in your description.

Senator METZENBAUM. Good. I thank you. Now I want to commend you on your meeting with some of those groups, a number of those groups who have an interest in what the Department of the Interior does. I think that generally speaking, there was a feeling that the meetings were a step in the right direction.

When the national wildlife conference held a meeting and a press conference afterwards, they had the following question. "Did Judge Clark make any commitments on the 34 concerns?" Answer: "He made no commitments on any of the concerns. He further clarified that it should be the province of the Senate committee before which he will be testifying during his confirmation hearings to have an opportunity to ask him those questions first and that he would go on record at that time."

Is that a fair representation of the meeting you had with the Wildlife Federation?

Judge CLARK. Yes, Senator. I don't recall any numbering of concerns.

Senator METZENBAUM. Well, I understand that.

Judge CLARK. Very few issues of substance came up during the 1-hour meeting. I did, however, tell them that I felt it would not be helpful to the integrity of the process if I started by discussing pending issue of substance before going before the jury up on the Hill, and so generally that is correct.

Senator METZENBAUM. I would like to then give you an opportunity to respond to some of those concerns that have been expressed by the environmental community with respect to the matter of coal leasing.

Would it be your intent to change or repeal any of the regulatory provisions with respect to the coal leasing programs. More basically, would you anticipate returning Federal coal management to a leasing policy based upon need for production, need to get the coal, rather than the need for stockpile?

I don't have to tell you that it has been a major public issue that under Jim Watt there was only one bid received for a number of tracts, and the claim was made that they were leased for $100 million less than their true value because they were leased at the wrong time.

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My question is are you prepared to review and to change that program so that the leasing will relate more directly to the need for the coal rather than the need for just going ahead and doing it in order to stockpile the coal?

Judge CLARK. Senator, there are a couple of aspects to your very good question in this area of grave concern. First of all, I mentioned the word 'jury' a few minutes ago. The jury called the Linowes Commission is now out, but not for very long. I understand that they will come in with answers to the questions that both the Congress and the Department have posed—primarily dealing with fair market value of coal and whether the Department has exercised the correct approach to valuation, setting aside need for the moment.

I have also been informed, during the course of my consultations with you and your colleagues, that the Linowes Commission will probably go beyond the fair market value question into policy considerations of sale as well. This was true in the case of the prior Linowes Commission report on another area of qreat concern, accounting for mineral royalties. I think that as a fellow attorney, you understand the prudence of not expressing personal opinions on the valuation process or necessity of coal leasing until we hear from that commission.

I realize neither the Department, the Congress, nor the Secretary will be bound by those recommendations. However, more often than not, as with the prior Linowes Commission, I think the Department did implement some 40 out of 50 recommendations. I would expect this prestigious Commission's work will not go unnoticed or unattended. Therefore, I would like to reserve any personal opinion on that until the Commission file its report. The Department then will have 90 days to consider the recommendations during which time there should be a great deal of consultation, not only with the Congress but with the affected Governors and other groups interested in the subject, including representatives of the industry.

Senator METZENBAUM. Judge Clark——

The CHAIRMAN [presiding]. Was that a question?

Senator METZENBAUM. Ten minutes goes fast. Mr. Chairman, let me be clear as to the policy you intend to follow.

I think many of us on the committee have literally hours of questions for Judge Clark. Is it your intent to continue to make it possible for members of this committee to explore with him our quite extensive concerns? Because obviously 10 minutes is not adequate.

The CHAIRMAN. As we would follow in our usual practice, once we have completed the first round of questioning, we will then go back for a second round, and if necessary, a third round.

Senator METZENBAUM. And a fourth and fifth?

The CHAIRMAN. Well, I suspect when we get down to the fourth and fifth and sixth, the balance of the members of the committee may decide their priorities—there will be conflicts.

Senator METZENBAUM. I guess what I am saying, Mr. Chairman, is as I had said to you before the hearing started, and I think Senator Johnston did as well, I think I reflect the views of Senator Bumpers, there are just a host of areas we want——

The CHAIRMAN. Senator, I think you understand what I was saying. I just think that that works itself out as the day goes by. We don't have the same number for rotation the longer the day goes by for the succeeding rounds of questions. I think it will work out.

Senator METZENBAUM. Thank you.

The CHAIRMAN. Senator Evans.

Senator EVANS. Thank you, Mr. Chairman. Judge Clark, in your letter of October 31 to Chairman McClure you state that you support close cooperation with State and local governments and with local citizens in making decisions on offshore oil leases, oil and gas leases.

Do you intend to consult with affected coastal States and to coordinate with their coastal zone management plans?

Judge CLARK. Yes, Senator, I do.

Senator EVANS. OK. Secretary Watt proposed oil and gas leasing in national wilderness areas, and the current 1984 Interior Department appropriations bill I suspect will pass a moratorium on leasing in all wilderness areas.

Will you support the moratorium and will you resist oil and gas, mineral or timber extraction leasing, for example, in proposed or designated wilderness study areas until Congress ultimately determines their status?

Judge CLARK. Senator, again it is a matter of complying with the law. I intend to start with that premise, recognizing, of course, the law in the area to which you refer goes far beyond the moratorium.

Senator EVANS. It goes far beyond the moratorium, but if the appropriations act comes through with the moratorium connected with it, do you believe that this then is ineffective or can be superseded by other provisions of law?

Judge CLARK. No, Senator, I am not suggesting that.

Senator EVANS. Well then, if there is a declared moratorium from Congress as a declared policy to this appropriations act, are there circumstances where you feel that leasing should go on during the pendency of those wilderness areas while it is being discussed by Congress?

Judge CLARK. No, Senator. Again, any prohibition imposed by the Congress must be respected.

Senator EVANS. In 1983 President Reagan initiated an asset management program to review all of our real property holdings and to expedite the disposal of surplus property. Federal lands in several municipal watersheds surrounding the metropolitan areas were designated to be sold under the program.

In our State that has been true, but they have not been lands in this case under the Department of the Interior. I suspect that is true in some other States, however.

Will you intend that watershed areas be excluded from future sales to assure adequate municipal water supply quality and/or will you offer municipalities the first opportunity or priority opportunity to acquire such watersheds?

Judge CLARK. Yes, Senator. Any such sale would not come up under the property management approach that you mentioned. The Department of Interior is not subject to that process.

The Department will, however, rely on the historic processes and criteria for any sale of land in three categories. First, an isolated piece that has become uneconomical to manage. Second, where the purpose for which it was intended has ceased. Third, where the sale is used, as you suggest, to round out or assist a State or local government. Under these three criteria, I believe the Department has sold only about 10,000 acres last year. To many of us that may sound like an awful lot of acreage, but 10,000 is not comparable to the 200,000 acres a year reached in the 1950's. Sales have been minimal, and I think that the policy is a good one.

There has to be some historic criteria applied by the Secretary.

Senator EVANS. I would think that in almost every case the municipal owners of watersheds would be very happy to see the land retained under the Department of the Interior or National Forest Service or other jurisdictions in order to help protect the watersheds.

Their concern is sale for purposes that might really conflict with the water quality in the area.

Judge CLARK. Yes. This problem calls for very close communication between the Department on one hand and the local governmental entity on the other, including water districts, one of which I represented when I was in law practice.

Senator EVANS. Like Senator Hecht, I would like to turn for a couple of moments to perhaps more parochial issues. In this case it is a fairly large one. When the Federal Government proceeded with the development of the Columbia River Power System it pledged to fund andaverous fish hatcheries necessary to offset the adverse impacts of dam construction on our fish runs in the Pacific Northwest.

Secretary Watt proposed to reduce and in effect eliminate funding for andaverous fish hatcheries in the Pacific Northwest in the so-called andaverous hatcheries which we believe thereby reneges on the Federal Government's pledge to protect that fisheries resource on a continuing basis.

What would be your intentions along that line in terms of the continued maintenance and operation of those hatcheries which are in place to mitigate for the dam's adverse effects?

Judge CLARK. Senator, I have your letter on that and several other issues, and I have requested from the Department a full analysis on that question. It is not so parochial because it relates to other fishery and hatchery issues. I have asked for a full briefing and fast response to your letter on that and the other issues in the same area.

Senator EVANS. I realize there are several questions here that would be difficult not to get some extensive background on before replying.

Judge CLARK. I believe I am aware of the process to get those answers.

Senator EVANS. Secretary Watt characterized Indian reservations as disastrous experiments in socialism. I am curious about your fundamental philosophy or proposals as they might relate to termination of reservations, the leaving of personal choice to the tribes and native Americans who choose to leave or remain on the reservations, with the commitment that if they remain, the Federal

Government will honor its trust responsibilities—just some brief words on your approach and perhaps philosophy in relationship to our Indian reservation responsibility.

Judge CLARK. Mr. Chairman, may I answer that? The bell went off.

The CHAIRMAN. Yes.

Judge CLARK. I am not sure of your rules.

The CHAIRMAN. You may respond.

Judge CLARK. Senator Evans, I am not certain what Secretary Watt meant by the statement.

Senator EVANS. I'm not either.

Judge CLARK. Going on to your second point, the policy of the Interior Department and the Reagan administration toward Indian tribes really goes back to Chief Justice Marshall's characterization of the tribes as domestic, dependent nations. On that basis, it is the policy of the administration to encourage self-determination for the tribes. It is necessary that the Government recognize the 300-plus tribes that Chief Justice Marshall referred to.

We are talking about roughly 750,000 members of the nations, and the Bureau of Indian Affairs is the largest of the 10 bureaus in the Department. If confirmed, this it is going to be an area of active interest and concern on my part, particularly because the Interior budget for the Bureau of Indian Affairs has increased some 25 percent in the past two years while other budgets as for Health and Human Resources and HUD, have not reflected these increases. I assure you, and I would assure Senator Goldwater who was here earlier expressing his concern, that this is an area of high priority.

Senator EVANS. Thank you, Judge Clark. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Melcher.

Senator MELCHER. Judge Clark, this hearing will, of course, continue this afternoon. I am not aware of how long, but I am not going into anything dealing with the subject I first mentioned, your agriculture background, at this point. Since we are in 10-minute rounds, I am going to go into an area that will permit you to express yourself regarding geothermal leasing policy by the Department of the Interior in the vicinity of the national parks.

Three national parks have been mentioned in the committee over the past several years where geothermal leasing might damage the geothermal features within those national parks. The three we have discussed are Lassen Park in California, Mount Rainier in Washington, and the Yellowstone National Park, particularly the geothermal area known as Island Park west of Yellowstone National Park in the State of Idaho.

Do I interpret that in your previous response and your previous description of your experience with sheep near Mount Shasta, California, that you are also familiar with Lassen Park?

Judge CLARK. Senator, I am familiar with Lassen Park. Mount Lassen is one of the few active volcanoes within our shores, and while we did not actually pasture in Lassen, we had an 8-day drive from our winter headquarters over one small pass of Lassen Park on our way to Mount Shasta. While I am familiar with the envi-

rons, this is not as true with the interior of the park because in those days we didn't have much time to enjoy the parks themselves.

Senator MELCHER. What is your feeling on geothermal leases? Let's take Lassen first—in the vicinity of Lassen Park?

Judge CLARK. Well, as another source of fuel, Senator, it certainly was of interest in our high consumption days, but I am unaware of how it may be utilized now. I know that closer to your own home, the Caldera Fault, the Yellowstone Park issue is of very high interest. I know the 5-year debate over the effect of tapping exterior areas and the resulting damage inside the park itself. But I don't know the issue per se in Lassen Park at this time on this tapping of energy.

Senator MELCHER. I am afraid I missed that last clause that you enunciated and that might have been the key.

Judge CLARK. The bottom line, Senator, is I am unaware of the issue inside Lassen National Park at this time on geothermal energy.

Senator MELCHER. How about outside? Because that is where the issue is.

Judge CLARK. I am no better informed on the outside issue. I know you have some legislation up here—and I am not at this point certain of its status which changes acreage minimums on leases in geothermal areas. But I am not aware as to how it may relate specifically to Lassen or outside the Lassen Park.

Senator MELCHER. Would you give me the same response for Mount Rainier in the State of Washington? The question being what is your attitude on geothermal leases outside of Mount Rainier but within the vicinity?

Judge CLARK. Well, my attitude, Senator, would be determined by the project that is at issue if confirmed. Congressional intent in these matters is usually taken on a case-by-case basis, and my attitude would be to find the facts first of all, determine congressional intent particularly on a regional basis, and certainly not to forget local government, which must live with whatever decision is made on any such lease.

Senator MELCHER. I think, Judge, that that is a pretty safe answer. I guess that gives you enough leeway to go either way on a case-by-case basis. I just asked about Lassen first because I thought maybe you had a firm opinion on that already and threw Mount Rainier in there because it is one of the three.

Now I want to get close to home to where there is already a preponderance of strong feeling against geothermal leasing, and that is the Island Park area west of Yellowstone Park. There is no leasing going on in the Department at this time. Indeed I think that one of the most pointed statements given by the Department of the Interior, given by Arnold D. Petty, May 2 of this year, and I just read you one sentence. "We question whether there is a need for additional legislative protection of parks since specific authority and responsibilities are already mandated elsewhere. It is the responsibility of the Secretary under the law to preserve and protect the national parks of this country."

There are a lot of us who feel rather strongly that that could not be accomplished without continuing in the Island Park area for geothermal purposes.

The bill that is referred to in, in this May 2, testimony, is a bill that is before this committee. It is a bill that is on the agenda for action by the full committee.

What I am curious about right now is do you have a firm, strong position on the Island Park geothermal leasing at this time? And/or can we expect something less, something more, about the same, or are we going to get an answer? Or are we are going to study it on a case-by-case basis, depending on what Congress does because what Congress does in this respect to a certain extent will hinge on what the Department of the Interior recommends?

Judge CLARK. Senator, I do not have a strong position on this issue at this point. I have no position until I am able to review the facts, and I can certainly assure you of fast review and a determination of where each party stands starting with the Department itself. As I told you last night when we conferred on other questions, including the checkerboard on which I found the answer, I would seek to find a position as quickly on this issue, if that is your request. Could I correct something, Mr. Chairman?

In the answer concerning Lassen Park, Senator Melcher, I should point out that our ranch and my home for the last 25 years have been some 500 miles south of that area, so I have not been in that region and would not, therefore, by proximity, really know what is going on in Lassen as much as I look forward to finding out.

Senator MELCHER. My time has expired.

The CHAIRMAN. Thank you, Senator Melcher.

Senator NICKLES. Excuse me. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. Judge Clark, I believe that a policy was dictated by our President quite clearly upon taking office after his election with regard to this Nation achieving energy independence to a much higher degree than had been formerly the case.

I believe that we have made some rather significant improvements in that at the present time our dependence on imported oil is approximately 28 percent of the total utilized in our Nation as compared to our dependence of about 45 percent in 1977.

I wonder if you could comment under your stewardship as Secretary of the Interior what your attitude will be toward carrying out what I assume would be a restatement of policy, recognizing that in the effort to achieve a greater degree of energy independence for this Nation, there is a certain amount of give and take in the sense of public lands being made available for exploration and the consequence associated with the cooperative interest and effort between the various State governments, and your particular responsibility as far as the stewardship of those public lands within those States.

I would appreciate your general comments, of course, as to how you would envision the policy of energy.

Judge CLARK. Yes, Senator. I first of all start with my experience at the State Department, and then the National Security Council, over the gravity of energy independence. With respect to crude oil alone, our dependence is some 40 percent on oil from outside our

shores. From the national security standpoint, this is of grave concern to all of us I know, including your own committee.

We are looking at the possibility of waking up some morning and finding the Straits of Hormuz possibly closed which would affect not only supply but also price. I mentioned earlier that with respect to metals and strategic and critical materials we are not much better off. More than 50 percent of our 24 critical metals and materials come from beyond our shores.

As a result of this, for the first time since the Eisenhower administration, President Reagan issued a metals policy paper—as I know you are aware—and we have likewise tried to increase our strategic oil supply as quickly as possible. We are up to about 360 million barrels now, but we are still not within what we consider a safe zone in the event we should confront a crisis.

Recognizing the policy of balancing environmental concerns with the realities of supply and demand the Department is trying to accommodate both through its on and off shore leasing programs. As to any change in these programs, I would wait to make pronouncement until after I am confirmed. I recognize the problems created by these competing interests.

In our last oil well blowout, offshore in Santa Barbara in 1969, my children and I were there. As a result of what we saw and what we heard as California residents, we have learned to concern ourselves with the esthetics of our beautiful coast. We notice the wells out there, including the State wells comprising the vast majority within the first 3 miles totaling some 3,000, and beyond that some 600 Federal wells. So again we have these balancing considerations—energy needs on the one hand which—as Senator Jackson pointed out—must be filled within reason and, on the other hand, some real tough developmental problems resulting in a moratorium on offshore drilling. These problems exist not just in California but in the gulf and off the Atlantic coast as well. I would hope that during this moratorium we have the opportunity to sit down and really consider these things. We have some breathing time between now and next September to consider these areas that have been blacked out.

I don't think straight moratoria, the word coming from the Latin and meaning death, is really the way to go. We must maximize our study within this period to decide where we go. Otherwise, we will awaken some morning and be told to go to the wake following the moratorium.

Senator MURKOWSKI. Is it a fair statement then, Judge, to indicate that your policy would be a continuation of energy independence as the goal, attainment of a greater degree for this Nation?

Judge CLARK. Yes, Senator, that is the hope. It is a relative term, I realize. It is an ideal, recognizing that we simply consume more than we produce, and it is an old problem that we are stuck with.

If I am confirmed, of course, I will be Chairman of the Cabinet Council on Energy and Natural Resources. In that position, I won't make decisions but will coordinate the interagency process of developing recommendations to the President on these vital questions.

Senator MURKOWSKI. Judge Clark, with regard to the current 5-year OCS oil and gas leasing program, setting aside the moratorium, that exists on the east coast and off the California coast, most

of which is in my State of Alaska, this 5-year OCS program and the concern of the people that are affected in the immediate areas with regard to the impact as well as the State's concern, how do you propose or do you propose any change in that program, and do you advocate the OCS revenue sharing legislation which has been discussed a great deal on the floor of the U.S. Senate?

Judge CLARK. Senator, I stand corrected for not including Alaska. Your great State is unique in so many ways, and we have a tendency to set it aside when we are talking about many of these issues. Again, in response to your question and that of Senator Evans, the Department must recognize a moratorium whenever it is imposed by the Congress.

On the second part of your question, that being revenue sharing on the Outer Continental Shelf, it is a fascinating question, to Californians in particular. I recognize that the administration, at least for now, does not support the concept. It would be quite a drop in revenue to the Treasury Department and the pending legislation calls for a rather involved, some call it convoluted, distribution of that revenue. However, it is a concept that will not go away.

The plus side of revenue sharing between the State and Federal Governments on OCS revenue has been argued and I think it is reasonable that States that are going to take the brunt of any accident as a result of the development of that oil on Federal land should somehow share in the proceeds.

Likewise the States might be more cooperative in agreeing to offshore lease arrangements on a partnership basis. I know you are considering it here, and I assure you, if confirmed, I will be taking a long look at another possible partnership concept.

Senator MURKOWSKI. Well, I take your comments to be somewhat sympathetic to our concern for OCS leasing with revenue sharing.

In my one remaining moment I would ask on behalf of my colleague who is here, the senior Senator from Alaska, would extend to you an early invitation to visit our State because 20 percent of the domestic petroleum produced in the United States is coming from the State of Alaska and is very important to our energy independence, that you have a firsthand view of the potential.

Thank you.

Judge CLARK. Thank you, Senator, and if confirmed, I would like to accept.

The CHAIRMAN. I have informally told other members that it would be our intention to recess for lunch at this time.

There are two members who are present who have not had the opportunity for the first round of questioning, and I would like to accord to them if they desire the opportunity for that round of questioning before we recess.

I have consulted with minority and that is satisfactory with them. If there is no objection, I would like then to recognize Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. Judge Clark, in the statement you read, your opening statement, you quoted Senator Jackson. On page 2, the second point was that he was—and that you quoted: "I am saying that there are certain principles established by Congress which must be followed." This is in connection

with the Interior Department; No. 2, maximum protection of the environment.

Now as you know, Judge, having reviewed this situation there, the law that Congress has sent out in this connection gives wide latitude to the Secretary. It is impossible for the Congress to set out exactly in detail you can do this, you can't do that, so there is latitude, and within the same law we get Secretaries taking a completely or a substantially different orientation.

In other words, there is a wide difference between Secretary Andrus who was here before Secretary Watt and Secretary Andrus' successor. Secretary Watt, working within the confines in exactly the same way, gave a very different orientation to the Department, and so it seems to me the purpose of these hearings will be to recognize you can't give the specifics as to this park or that park or what you are going to do here or there because those are matters that you have to review when you get into the job; but what we do seek it seems to me is a tilt, an orientation, something that goes beyond that as presented in your opening statement, and for example, the questions I would ask you are by nature broad, but I want to get your feel on these subjects because I feel them to be important.

For example, already the matter of wetlands has been touched on by Senator Johnston. I wasn't here, but that is my understanding. I think we all recognize the need to conserve the wetlands, and this has never been more critical. The latest statistics I have, the rate is something nearly a half a million acres a year which is devastating to the Nation.

Now the wetlands are biologically and economically important to the lives of all Americans. That is the start of the chain of life, and so my question to you is are you prepared to have under the direction of your Department an aggressive program in connection with wetlands?

It is going to cost money. There is no question about it. It is going to take more acquisition than has been true in the past.

Could you give me your tilt in that area?

Judge CLARK. Yes, Senator. I certainly share your concern. We are losing some 400,000 acres of wetlands a year. I don't know for how long this had been occurring before people began to do something about it.

Senator Chafee, I know you have been in the forefront of concern and you have a bill pending now that, in principle, the Department and the administration agree with. There is also a House bill on the same subject. In addition, there is the so-called POWDR bill. I am not sure the exact status of each of these proposals but I am informed that the Department has begun to take serious notice of this problem and to move in this area in several ways. I think some of them have been termed innovative. Doubling the duck stamp fee from $7.50 to $15 is not innovative. I understand that this approach has been taken all too frequently. I am not a duck hunter, but I know there is some concern on that.

However, increasing the price of the duck stamp would produce substantial revenue from those who stand to profit from preserving these wetland areas. Additionally, the Department is seeking ease-

ments, realizing that easements for use in preservation require fewer dollars than acquisition by fee title.

Additionally, we are looking at tax incentives for the nondevelopment of what now exists as wetlands. To further the idea, we are trying to find out who within Government, both State and Federal, is subsidizing the development or the filling of these lands. There is a lot of action in this area and, if confirmed, I assure you that such activity will not cease. Review of the three bills now seems rather critical to the issue.

Again, OMB is concerned about direct appropriation for the acquisition of those lands, but I feel the administration is on top of it and hopefully has been working directly with you.

Senator CHAFEE. I don't seek from you a specific commitment on this legislation because obviously you have got your review to make, but what I do seek from you is a commitment that your interest is in this. You will give it a push. Obviously you become a very powerful person in this interaction between OMB and the Congress, and what position you take is of extreme importance. If you are laid back and comme çi, comme ça, metza, metza, you don't care too much, well then, that is one thing, but if you give it a push, then the chance of it succeeding is far greater.

Can you give me your stand on that?

Judge CLARK. Yes, Senator. I don't look upon it as a question of power so much as a matter of duty to move out on it. You have my assurance on this issue. There are mandates involved, and the issue is rather clear to me. You have my assurance to move on it.

Senator CHAFEE. Well now, I would like to move to another area, and obviously you are in a position where you are getting pressure from every direction. Senator Murkowski is for greater development to make the Nation more oil independent, and yet at the same time I am deeply concerned, as many of us are, and I believe the majority of Americans are, for wildlife refuges, and we look on these as primarily for wildlife habitat protection and for the use of wildlife.

Now under the last of your predecessors, Mr. Watt, there has been a push to get into oil exploration, increasing development of these areas, and I would like to know your thoughts on that.

What do you believe, how do you look on refuges?

Judge CLARK. Senator, we have I believe 417 wildlife refuges, and I think some 50 of them now have some type of mineral production on them. At the same time I am assured by the Department there have been no recent leases on any wildlife refuge lands under the jurisdiction of the Department. The basis for issuing any leases within refuges at anytime has been the law through which the Congress granted a discretion to the Secretary, to the Department, to allow certain multiple use activities on refuges with the test being compatibility.

Senator CHAFEE. That you see comes to the discretion of the Secretary. The Secretary is an extremely important position, a person, and I would be interested and not binding you to this refuge or that refuge, but in your tilt as you approach this problem.

Judge CLARK. Senator, again as you point out, the Secretary is charged with discretion which means making a decision one way or another when that issue comes before him. You have my assurance

that, if confirmed, those determinations of compatibility would be on a case-by-case basis, whether there are 417 cases or 1 case. I think that the answer probably lies in recent history of leasing in refuges.

There have been no new leases of any type on the refuge lands.

Senator WARNER [presiding]. The witness may finish the response.

Judge CLARK. Thank you, Mr. Chairman.

Senator CHAFEE. I don't think we have got anybody else here!

Senator WARNER. Oh, yes, we do.

Senator CHAFEE. We sure do—the acting chairman.

Senator WARNER. Not only that—he has got the Chair!

Senator CHAFEE. Finish up, please.

Judge CLARK. Well, within 50 of the 417 in which there is either inholder use or third party holding. I understand these uses range from rock and gravel extraction to oil, to mining claims. I might remind the committee that the Secretary is also charged in trying to acquire those outside interests either by exchange or by condemnation, and I understand that such acquisition has been attempted whenever the competing uses are thought to be incompatible. Subject to the 5th and 14th amendments to the Constitution, if confirmed, it would be my duty to continue to try to acquire those outside interests and, thereby, eliminate incompatible activities within the 417 refuges.

Senator CHAFEE. Thank you.

Senator WARNER. Thank you, Senator Chafee. Judge Clark, first I appreciate the opportunity to have discussed your appearance here today in my office.

Judge Clark, in your capacity as Secretary of Interior you will be the Chairman of the Cabinet Council on Natural Resources, and one of the key issues that will be coming up again before that Council will be the subject of acid rain.

Now you can play the role of power broker in trying to resolve that very, very difficult issue. At this moment, what sort of opinions do you hold on that critical subject?

Judge CLARK. Senator, in my years at the State Department, I was involved in the issue of acid rain with our Canadian neighbors through their Embassy. Basically the issue of the acid precipitation includes oxides from fossil fuels.

Many experts have studied the problem. There is some division of opinion as to the source of this precipitation which first affects lakes, rivers, and even buildings. It is not a new problem.

The Department of the Interior has no statutory responsibility with respect to acid rain. That responsibility lies with the Environmental Protection Agency. I have already conferred with the Administrator on this, and it is a big problem. It is an expensive problem. Total solution is estimated to be between $40 and $60 billion. That should not, however, deter us from looking at it and hopefully some day resolving it.

Now back to your point; as Chairman of that particular Cabinet Council I am not a decisionmaker but rather a coordinator as I was with interagency groups at State and at the NSC. So I would effectively be playing a judge again in getting the views not only of other members of the Cabinet Council but also of the Congress and

local governments. I have discussed this with Senator Byrd for an hour recently. Some of the solutions that have been suggested pose grave economic and other consequences, but that will not affect our duty to face the problem, to discuss it and to make recommendations to the President at appropriate times.

Senator WARNER. That is very important, Judge, because there are extremely vital economic concerns, environmental concerns, and indeed one of the Nation's major sources of energy, coal, is deeply implicated.

I recently visited the Federal Center of Coal Research, as a matter of fact, just yesterday, and they are on the threshold of some major breakthroughs in trying to provide coal as a means of energy in a way that is not in conflict with the environment. In other words, it has been thoroughly cleaned up.

I saw a program yesterday whereby we can take coal in perhaps 2 years' time, and provide it as a fuel for diesel locomotives on America's rail system. Coal is on trial in acid rain, and if you pledge to be a judge who is impartial and objective, I hope that coal will get a fair shake.

Judge CLARK. Thank you, sir.

Senator WARNER. The second question is the abandoned mine land fund referred to as AMLF, will be under your jurisdiction. I don't know that you have had the opportunity to get into finite detail in preparation for this hearing, but there has been considerable concern that the Department of the Interior has not expeditiously dispersed the funds to the States and those funds are desperately needed.

In West Virginia and Kentucky, 30,000 to 40,000 miners are out of work and those funds might well provide jobs and at the same time try and restore some of the damage that has been done to our environment.

Have you had an opportunity to look at that issue?

Judge CLARK. Yes, I have, Senator, and again as Senator Chafee indicated, the Secretary of the Interior has discretion over 50 percent of those funds. The industry has produced them to begin with, and the Department should be expeditious in their return.

The Department returned $25 million to Wyoming a week or two ago, and I know the Department is aware already of the mechanics and accounting for returning such revenue to the States.

There is also an issue which, if confirmed, I expect to become involved with, and that is criteria for exercising the Secretary's discretion over the remaining 50 percent. Should it be coal related only or should it be a broader designation to social or other programs within an affected area? I will be anxious to implement that review.

Senator WARNER. And hopefully accelerate the disbursal of funds.

Judge CLARK. Yes, sir.

Senator WARNER. One last question—one of the most distinguished members of the Senate, Senator Jackson, frequently reminded this committee and the Senate of the vital linkage between our national defense and our energy policy.

I hope that you likewise share that and will work toward energy independence. I am sure you remember Senator Jackson's frequent admonitions to the Congress and the country on this issue.

Judge CLARK. In answer, Senator, I do, and I will.

Senator WARNER. Thank you very much. The committee will stand in recess until the hour of 2 o'clock.

[Whereupon, at 12:20 p.m., the hearing was recessed, to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Senator WALLOP [presiding]. Good afternoon. The committee will reconvene its hearing on confirmation of Mr. Clark to be Secretary of the Interior. I'll remind you that you're still under oath.

I'd like to make a couple of observations that perhaps would straighten out some of the statements that were made earlier this morning.

The principle issue with regards to leasing the wilderness did not begin under Secretary Watt. Predominantly all issues which are or were in the wilderness areas were issues of Secretary Andrus and previous Secretaries of the Interior and the issue there was whether to permit the drilling. Secretary Watt had a solicitor's opinion which said that those were property rights and that he was under some compunction, he wrote a letter to me and the Congress leaving it to the Congress. Congress acted and as far as I can see that policy has been laid down by law not by choice. You as potentially the future Secretary of the Interior and anyone else, the law exists. And so I hope you do not waste a lot of time dealing with issues that are beyond the reach of the new Secretary and on which Congress has acted. But I do think it's important to clarify the record of the basic issue.

At issue was primarily whether or not to permit drilling on leases that did exist and had been issued essentially under previous administrations.

With that, Senator Tsongas appears to be the next in line to ask his questions. We are still under the 10-minute rule or until such time as others ask questions.

Senator TSONGAS. Mr. Chairman, I'm sorry I had a schedule conflict this morning and had to leave early. I don't know what happened here this morning after I left, but looking at the attendance this afternoon it's like the Giants-St. Louis football game the other night. The audience in the second half was nowhere near the size of the audience for the first half. I suspect that probably has happened here this morning.

Let me deal with three issues now if I can. I have a number of additional questions which I will submit to you in writing and ask for your response. One is a controversial issue in my part of the country regarding off-shore drilling, the whole OCS program generally. Do you think the OCS program that Secretary Watt carried out is consistent with what President Reagan wishes the program to be?

Judge CLARK. I know of no differences, Senator, between the President and the Department at this time with regard to the OCS program which is primarily a creature of the law which the Con-

gress wrote. Again, on that rather narrow question I just have to say I'm unaware of any evidence to indicate that the President disapproved of the process or of the law.

Senator TSONGAS. We now have a 5-year lease plan established last year, and there's a great deal of controversy about that. Have you had a chance to look at that 5-year lease plan? Do you have any differences with that plan? When could we expect that you would be able to give us a definitive answer on whether certain tracts of that plan will be removed from leasing?

Judge CLARK. In the time that I've had, Senator, I have a fairly good general idea of the 5-year plan, including the 41 suggested or proposed lease sales. The total possible area of consideration for Outer Continental Shelf leasing includes the entire 1 billion acres, if completed. However, the appropriations bill casts some doubt on the entire plan by reason of the moratorium. I understand that the Department estimates that less than 5 percent of that total acreage would actually be leased. Of course, the program has been suspended by the moratorium. I think this gives us an opportunity to come together to attempt to resolve the differences of opinion with regard to the OCS program. The Congress, the 23 States involved, the Department, the different environmental groups, will discuss what is to happen when we come out of that moratorium next September.

Senator TSONGAS. Did you plan to convene these groups and try to achieve some kind of a concensus on policy?

Judge CLARK. Senator, I believe we are compelled to bring these groups together in one way or another, to hear their views I don't think we can just sit by and allow the moratorium period to come and go without trying to reach a better concensus on the issue. That seems to have been the case up until now.

Senator TSONGAS. In terms of the Georges Bank area specifically, lease sale 52 caused a great deal of concern and ended up in the courts and it's being held up, et cetera. The original plan of lease sale 82 would go forth in February of next year. Do you have any plans to withhold lease sale 82 until the other one is resolved?

Judge CLARK. Senator, I'm unsure whether that falls within or without the prohibited strip. That will have to be reviewed. I am told that of the several areas of proposed and actual leasing, this area has been one of the least productive, there having been eight dry holes drilled out there. This will need to be reviewed.

Senator TSONGAS. The oil drilling and natural gas drilling has not been productive. The fishing, however, has been, and tourism. Why jeopardize a renewable industry such as fishing in Georges Bank for what looks, at best, like a theoretical amount of oil in that region. We would hope there would be some sensitivity particularly given the current world oil situation. It doesn't seem to make a great deal of sense to be out there drilling.

Let me deal with historic preservation if I might. Every year that I've been in the Congress, I guess, I came to the House the same time that Senator Bumpers did to the Senate, we have a fight on historic preservation. This, by the way, goes back, not just the Reagan administration but the Carter administration as well. It's the Congress that is compelled to put money in the historic preser-

vation funds. I don't know anyone who is not happy with the kind of preservation work that has gone on around the country.

What is your position on the funding of historic preservation in the fiscal year that will be coming up?

Judge CLARK. I have not reviewed the proposed budget which is at the White House now. There are 3 months in which to do that before the budget is submitted to the Congress. At this time, I can't comment on the pencil figures. I understand, however, that it has been the policy of the Department in each of the last several years to recommend a reduction in funding for historic preservation and to encourage increased participation at State and local levels in that area. The anticipated result would be a cooperative endeavor in this area, not unlike your Lowell Park project which stands out as a hallmark not only for preservation but also for productivity. I guess that mill goes back to 1830.

Senator TSONGAS. You've been briefed well.

Judge CLARK. I feel that, if I may, your project, and the Arizona strip wilderness proposal are the two examples in the past several years which demonstrate what can happen when all parties come together in a cooperative spirit to accomplish a common goal, whether that goal is the preservation of over 300,000 acres of wilderness in Arizona or the preservation of Lowell Park. I think we have to weigh the factors on a case-by-case basis, both the project and the appropriation. I assure you, if confirmed, I'll look at that aspect of the budget.

Senator TSONGAS. Would you agree to meet with some of the people involved with historic preservation and trust funds before you make a decision on that to hear their side of the story?

Judge CLARK. Yes I will, Senator

Senator TSONGAS. On the Alaska national interest lands issue, before the Reagan administration arrived, we, during the Carter period, had a very long debate over Alaska and that resulted in the Alaska lands bill [ANILCA] which was signed into law in 1980. Are you familiar with that?

Judge CLARK. That will depend on the depth. I'm aware of the three land bills starting at statehood in 1958 and generally what each attempted to do and the acreages involved. I'm not an expert on those three acts.

Senator TSONGAS. The argument here——

Senator WALLOP. You may question as long as you wish, but we follow the rules.

Senator TSONGAS. Can I just have 2 minutes?

That bill involved at the time extensive negotiations between myself, Senator Jackson, Senator Stevens, and Senator Hatfield. And when the bill was finally passed and became law, the assumption was that the Alaska lands issue had been settled, at least for a reasonable period of time. And now we have had coming back this year, the so-called Alaska hunting bill which would take something like 12 million acres of national park land in Alaska and open it up to sport hunting, and naturally it caused a great deal of furor. Much of that land was deleted from the bill in the committee earlier this year.

The concern we have had is the whole question of whether the Alaska lands bill has been settled for a reasonable period of time

or whether, in essence, it's fair game, and that whichever side happens to have control of the political balance at the particular time can feel free to come back and either try to reduce the lands or open them up, depending on the political winds at the time.

What is your feeling about the Alaska lands bill, in essence settling the issue, or do you see it as an open-ended situation that may be brought up at any time.

Judge CLARK. As with any act, Senator, I refer to the six basic acts guiding the Department of the Interior. Circumstances can always change and I believe that's one of the duties of the Secretary, to constantly review any act and its implementation.

As I understand this issue it's a question of whether this acreage would be reclassified as a preserve which would allow hunting within certain boundaries. I understand the Department has taken a position relative to 10 million of the 12 million acres. However, I understand that there is competition within the committee itself on this issue at this time. If confirmed, I would certainly follow it very closely, reviewing, as well, the position of the Department on the matter.

I'm certainly not at this time ready to make any recommendation on this issue.

Senator TSONGAS. I would be quite content if you're not willing to do that for a year or so because I think the issue was pretty much resolved in the committee and I would hope it would be a low priority. Thank you.

Senator WALLOP. Senator Bradley.

Senator BRADLEY. Thanks very much, Mr. Chairman.

Do we have 10 minutes Mr. Chairman?

I'd like to ask on the OCS leasing program which is of great importance to New Jersey and I think to most of the coastal States in the country, do you think the Interior Department's OCS leasing program has been controversial?

Judge CLARK. Yes Senator, it has.

Senator BRADLEY. Do you have any opinion as to why it's been controversial?

Judge CLARK. No. Not having the genesis of why it has been controversial, I am aware there have been many views. Any time a program involves considerations of a billion acres and includes such varied tracts of concern, real estate in Alaska, California, and the gulf, there's bound to be controversy. As I've stated, I hope, if confirmed, that during this this moratorium we might be able to come together in the national interest and determine not only the basis of the controversy but its resolution as well.

Senator BRADLEY. Would you say that one of the elements of the controversy is just the sheer magnitude of the amount of land that has been offered for lease?

Judge CLARK. Yes Senator, that is certainly a factor.

Senator BRADLEY. Would it be your intention to look with a little more care to the sheer quantity of land that would be offered for lease under the OCS program?

Judge CLARK. Senator Bradley, that is a consideration. At the same time I've just stated in my last comment, my understanding is that the billion acres is the broadest perameter for consideration only and by no means is it likely this amount of acreage would ac-

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tually be leased. I have been told that most estimates indicate that only about 5 percent of that total acreage would ever be leased due to economic, environmental, and other factors.

Senator BRADLEY. Well what would you say should be the goals of a properly managed OCS program?

Judge CLARK. The goals which must be viewed in light of our national interests is that old balancing test need on the one hand and environmental concerns on the other. I think it's the hope of everyone that we can reduce our dependence upon foreign oil, which, as of this morning was 40 percent of our crude oil. Recognizing reality, perhaps we'll never be able to reach total self sufficiency in the fuel area, although it is certainly the ideal. The environmental factors are recognized, I'm sure, by every American.

Senator BRADLEY. I think what you've said is a legitimate answer that it's a balance between the environmental and developmental issues and concerns. Would you say under your tenure at the Interior Department that environmental concerns would have a greater or lesser weight than under the tenure of Secretary Watt?

Judge CLARK. Senator, I'm not in a position to compare any of my predecessors in that position. As we know in our variable society, the thing called the pendulum goes back and forth, and as Senator Chaffee said this morning, balance is often in the eyes of the beholder. I'm not going to sit here and suggest that I'm going to have greater or lesser environmental concern. I would hope, however, that from my opening statement of background and experience which shows that I literally live in the center of a self-developed refuge, that you realize I will have all of those factors very much in mind because that's the way I was raised.

Senator BRADLEY. That's good. How do you envision consulting the states in your OCS leasing decisions?

Judge CLARK. That Senator, is an indispensible part of the process, not only with respect to OCS but also with everything else. I was with Governor Reagan at a time when some of your colleagues, Senators Evans, Chafee, and Laxalt were occupying State houses and the same issues were apparent then. I think if I learned anything in that period of time it was the necessity of communication and review with those people of similar interests.

Senator BRADLEY. Let's say to be specific we have a situation similar to the one that existed in New Jersey in 1983, in early 1983 where both Democrats and Republicans, the Governors is Republican and the Senators who were Democrat, the Congress people who were both Republican and Democrat, were firmly opposed to the leasing of a certain area off the coast of New Jersey that had been determined by the State as being environmentally sensitive. This issue was raised. Secretary Watt essentially ignored it and we had to go the legislative route to exempt those tracts from leases.

Now will it be your policy as the Secretary of the Interior that when you have a broad bipartisan coalition formed in a State that says we recommend you do not lease these tracts offshore, would it be your policy to pursue the leasing anyway?

Judge CLARK. In the example that you gave, Senator, it would be very difficult to proceed against such a mandate and it's to be avoided.

Senator BRADLEY. So if this group did come together, you would not pursue the lease further?

Judge CLARK. Well Senator, we're dealing with a hypothetical situation, but I can assure you that a concensus such as, the one you described would certainly give any Secretary of the Interior great difficulty in proceeding in a contrary manner. However, I cannot tell you what I would or would not do on those facts. I think it would be unfair to the integrity of the system under which we have to operate.

Senator BRADLEY. One last question on OCS and that is do you think the program needs to be reassessed or modified in its present form?

Judge CLARK. Senator, I'll repeat what the President has directed me to do, and that is to conduct a review, and I don't mean a pro forma review, of policy, process, and personnel. OCS is certainly one of the larger issues at the moment.

Senator BRADLEY. When would that be completed?

Judge CLARK. Well it's already begun, I assure you. I don't know when it will be completed. I can only assure you that as with any new Secretary it's something that would be very much on track and I could answer that question hopefully within days following confirmation, if that happens.

Senator WALLOP. Senator Ford.

Senator FORD. I'll yield. I'm late.

Senator WALLOP. You are the last who has not asked questions. If you wish to proceed, otherwise I'll start on the second round.

Senator FORD. Well we'll just try a couple here.

I understand you're pretty good at stonewalling, is that true?

Judge CLARK. Senator, that would be for others to judge.

Senator FORD. Well I heard it. That's only been a half a day, so you must be pretty good.

Let me ask you this question. Do you see any problems with the Department's implementation of the Surface Mining Control and Reclamation Act of 1977?

Judge CLARK. I can't think of one offhand, Senator. If you're aware of a specific example, I'll attempt to refer to it and to answer your question.

Senator FORD. You see no problems with the implementation of the act?

Judge CLARK. Senator, with all due respect I must suggest I'm not sure of the question.

Senator FORD. Well let's give you a little background so we can start out even. The National Abandoned Land Inventories used by the Office of Surface Mining has a basis for allocating to the States a 50-percent secretarial share of the AML fund. Oak Ridge National Laboratory was one of the consultants used to compile the inventory. Several States have objected to using the inventory as a basis of fund allocation. They dispute Oak Ridge assessment of project priority as detailed in the inventory and feel that the information presented is less accurate and thorough than it needs to be.

Do you think OSM should redo the inventory?

Judge CLARK. All right, Senator, thank you for clarifying your question.

This area is under review at the moment and I refer to the discretion of the Secretary to dispurse 50 percent of the fund. Now as to the information being used to compile this review, I'm unaware of the source of the information being used. I can only tell you when the report is out making recommendations to the Department relative to distribution of that portion of the AML fund it will be reviewed.

Senator FORD. Do you think spending the Secretary's share on preparing a gold mine is proper?

Judge CLARK. On those facts, I don't think I could answer it. As I understand, the allocation of the Secretary's 50 percent up until now has been to related issues.

Senator FORD. I just asked you, the money was spent under Secretary Watt for repair of a gold mine operation. Should Congress be given the opportunity for a full review of any long-term allocation procedure?

Judge CLARK. Well, under the heading of consultation I think that would be natural in that the act itself was created here. It would be appropriate that any long-term plans under the act should lead to conferences between the Department and the Congress as well as with local governments concerned.

Senator FORD. Do you have any thoughts as it relates to the current secretarial share allocation procedure? Would you have any recommended changes since I'm sure you've dug into this situation before your appearance here today?

Judge CLARK. I'm aware of the act and the method of allocation of these moneys is being reviewed right now for recommendations to the Secretary on its allocations.

Senator FORD. Do you know how much of the Secretary's 50 percent is left and how much of the States' allotment of 50 percent is left?

Judge CLARK. No, I do not Senator.

Senator FORD. Would you be surprised to find that the Secretary's share is practically all gone and the States' share still has adequate funding?

Judge CLARK. I express no surprise because I am unaware of what the Department does hold in these funds. I know there's been an attempt, however, to speed up distribution on both the discretionary and nondiscretionary funds. How successful that effort has been, I do not know.

Senator FORD. How many mines, if you have any knowledge, does Interior estimate now have outstanding violations of strip mine law and other environmental statutes and regulations? Did they give you any kind of indication of that?

Judge CLARK. Senator, I have seen the evidence revealed in two court cases showing that over many years these have been allowed to accumulate and although enforcement lagged for years, there has been a real effort and I believe some success in cleaning up that backlog. I think I recall at one point some 10,000 outstanding violations or uncollected funds, but I'm not sure. I know it sounded like a rather high number.

Senator FORD. Are you familiar with the problems east of the Mississippi River as well as those west?

Judge CLARK. In coal?

Senator FORD. In any part of the Interior Department of which you will have control.

Judge CLARK. I would hope so, Senator.

Senator FORD. You said you hope so. We haven't had that in the past. There's always been a division at the Mississippi River. Everything west of the Mississippi that they want they normally get it. Those east of the Mississippi River have to fare for themselves. This secretarial funding and discretion fund, you look at that and see where it's gone, and I would hope that you would recognize there is another half of the United States.

Judge CLARK. I attempted, Senator, to point that out in my opening statement this morning, recognizing that the Western part of the United States has about 50 percent of the Federal lands, and only about 4 percent lies in the eastern region as you suggest. So the problems are different and must be viewed I think case by case.

Senator FORD. I read your opening statement and I understand your statement.

I understand maybe Senator Johnston asked you about that early on this morning, and I just want to hear you say that you're interested in the area east of the Mississippi River.

Judge CLARK. Very much so, Senator. If confirmed, my duties run to all of the people and problems are quite different in Interior in the East in contrast to the West.

Senator FORD. Let me ask you this. Will you deny new permits or insist that the States' strip mining program deny permits to those who own and control those unreclaimed strip mines until they clean up their existing violations?

Judge CLARK. Senator, this relates to your earlier question on the backlog of violations. I am not able to sit in judgment on that specific problem as yet. I think I have a record in my own State during the 12 years on the bench concerning violations of any criminal statute and the necessity to enforce any such violation. With that philosophy, I would hope to review what you've described in the same way.

Senator FORD. The law is the law.

Judge CLARK. Yes, Senator.

Senator WALLOP. Senator Evans.

Senator EVANS. I would just say first to Judge Clark, don't be overwhelmed by the interests of my good friend from Kentucky and forget the West in the process of remembering the East.

Senator FORD. I would just like to get a few crumbs, Senator.

Senator EVANS. Judge Clark, I'd like to talk a little bit about funding for water projects. We've had as I understand it over the last few years some promises of more water project funding from Secretary Watt. OMB has limited project funding and has had a policy recently of insisting the States pay a larger share of construction costs. Now this year Congress has rejected all of the administration's proposed new starts and inserting its own prerogatives. And the House of Representatives last month passed a supplemental appropriation bill funding 43 projects of their own choosing.

I'd like to know a little of how you feel about the relationship, how you intend to work with Congress in developing packages of water projects, the relative priorities of those water projects as

compared with other necessary expenditures. Any views you may have on the shifting or the changing of shared costs between the States and Federal governments, local beneficiaries, and all that.

First on a general basis and then perhaps some more specific questions in our own area.

Judge CLARK. Senator, I realize there have not been as many new water project starts as some members of the committee would like to have seen during this time of budgetary constraint. And I also recognize division within the committee and perhaps frankly, within the administration on the question of cost sharing, an issue which may lie at the root of the few new starts. On the one hand the Department of the Interior has generally taken the position that while cost sharing is certainly a reasonable approach to this area, whether it's in construction or in dam safety, we should view it project by project, looking at the consumer, the assets and the overall benefits of the project.

However, OMB generally feels, and I think, for the most part those who reside in the Eastern half of the United States feel, that the consumer, whether he be farmer or whomever, should bear a greater share of the cost. Mr. Gianneli suggests a figure of some 32 or 35 percent up-front water project money. And so it's a vigorous issue. I feel it's going to require a lot more time to resolve. I know from my experience in the West, and from our history going back to the Reclamation Act of 1902, that by tradition, by contract, by law, we have tried to spread the costs of water projects broadly among our society, and I think that is even more reasonable when applied in the area of dam safety where the unfortunate tragedy in Idaho revealed that this is a broad problem that should be shared by a greater segment of our society.

Senator EVANS. As you pointed out, some suggest we ought to more broadly spread these costs on the basis that the spread of irrigated farming has had a significant benefit to all citizens in terms of lowest cost food of any major nation and it represents one of our major export commodities to try to keep our trade balances. Others suggest of course that there are some individual benefits and as a result there should be more cost sharing. I understand the two points of view.

Do you have a point of view that you would bring to the counsel, to the administration, as you get to this?

Judge CLARK. Based on background experience and some study, I would tend toward the prior rather than the latter view, that these costs should be shared on a broader basis than many, including some in our administration believe should be done.

Senator EVANS. You mentioned personnel as one of the three areas that go into the initial review of the Department. Do you have any current intentions or could you let us know of your views regarding the major appointees, the policymakers or holders in the Department under Secretary Watt, what your intentions are so far as they're concerned, and also your general views on some of the more specific positions where there may be some particular professional expertise required. It might be the National Park Service, the Bureau of Reclamation, some of the other agencies, what your views are as to the necessity or desireability of professional and

technical experience as opposed to managerial or other experience in running those agencies?

Judge CLARK. Two points to your questions—on the first of the three P's, personnel, I know that mail has been coming in from many sources suggesting this or that person for this or that position. Someone mentioned there are 168 advisory boards and commissions within the jurisdiction of Interior. I have looked at none of this at this time. With regard to personnel, I feel it would be presumptuous to start looking at recommendations beyond the internal physical structure itself within Interior until confirmed, if confirmed. Mrs. Hill, sitting behind me, is the recipient of this mail. I have not looked at the pile, much less its contents and will not until I am confirmed.

Point 2, on professional expertise, I arrived in Washington for my first position, the No. 2 spot in the State Department, having read Dr. Kissinger's and other books on the Department on career versus noncareer personnel. One thing I learned very early in the reorganization of the State Department was the necessity of the professional expertise that has been built up in that Department with the necessity of relying on every level for every problem. Certainly the mix of career and noncareer is important in our democracy. Sometimes I'm afraid we overlook the depths of a department on its expertise.

Now applying that to Interior, I'm guessing a little bit, but in the briefings I've had thus far, the professional, the career member of the Department is very important. That certainly was the case in my earlier experiences in Sacramento as well. I'm not going to overlook the objectivity of the career people. If appointments are to be made I will follow the practice I established while on the court and in the other jobs that I had. First consideration will be given to competence and experience.

Senator EVANS. Thank you.

Senator WALLOP. The Chair will follow the posture we laid down in the beginning, that we take those Senators who have not had a first chance at questioning in advance of those. I'll call on Senator Domenici and then you, Senator Bumpers.

Senator DOMENICI. Thank you, Mr. Chairman.

I want to talk a little bit about Indian policy and then I'll ask you about some of the policies you intend to review as part of what you told us your mandate from the President is. But first let me ask you, are you familiar with the President's position paper on U.S. Government versus the Indian people?

Judge CLARK. This is last March?

Senator DOMENICI. Yes, the so-called white paper.

Judge CLARK. Yes, I'm aware of the paper.

Senator DOMENICI. I want to say right up front, frankly, it kind of got lost just to be honest with you because it had the unfortunate almost extraordinarily unfortunate timing of coming out the Saturday after Secretary Watt had made his statement about the Indian people. They were pretty inconsistent in terms of at least the President's position of what he wanted to do, but the principle thrust of the statement is, and I also want to say I think it's the most positive statement on Indians, the Indian people versus the U.S. Government, that we've had in at least a decade. It might be

the second most important that's been issued, and strangely enough very few people know that the President has issued it. So right up front I'm just going to urge that you use it as the guidelines for your Department.

He said in that, issued publicly as an executive document, that excessive regulation, self-perpetuating bureaucracy have stifled tribal decisionmaking, thwarted control of reservation resources, promoted dependency rather than self-sufficiency. This administration will reverse this trend by removing obstacles to self-government, more favorable environment for development of reservation economies. This policy recognizes the diversity of tribes, the right of each to set its own priorities and goals, proceed at its own pace. At the same time the Federal Government will continue to fulfill its traditional responsibility for the fiscal and financial resources held in trust for the tribes and their members.

I think you've already told me that you support that, is that correct?

Judge CLARK. Yes, I do, Senator.

Senator DOMENICI. Now my concern arises from an article in the New York Times last Sunday that was entitled "Bringing Decentralization to the Reservations." It contains a subheadline, "Administration Insists on a Billion Dollar Cut in Aid, and This Will Lead to Indian Self-Sufficiency."

I don't think the article fully explains the sources of the purported cuts, but it leaves a strong negative impression which I think could indeed be contrary to the President's policies and if you've addressed this previously in these hearings I apologize for asking you to repeat, but Judge Clark, Indian programs are not exclusively BIA programs. While BIA's bureaucracy may not have suffered cuts, in fact it may be going up, the truth of the matter is that the Indian people while they're going through self-sufficiency rely on a number of other things, Indian Health, HUD, programs that are terribly complicated, almost self-defeating the way they're drawn. I would ask you if you intend as Secretary to involve yourself in Indian problems generally, even if it's housing within HUD or Indian help within another department. If not, how do you expect there to be a program that's understandable and that the Indian people can rely upon?

Judge CLARK. Senator, you're correct. The Bureau of Indian Affairs which is the Department of the Interior's largest bureau, has had an increase, I believe some 25 percent in its own budget, over the past 2 years. At the same time, however, the Bureau shows a decrease in personnel, I think from 16,000 to 15,000, 80 percent of whom are Indians. Our Indian policy is to deal on a government-to-government basis, which seems to be acceptable to the Indian tribes as far as I can determine thus far. However, you are correct that the departments have reduced their direct funding. There are some 40,000 to 60,000 homes, residences, that are considered substandard and that is a problem. It's not a new problem. Our policy, and I am speaking now of our country for some years, has been less than constant in our relations with the Indians and our responsibilities to them. I have spent time trying to define the term responsibility or duty as it applies to the obligation the Federal Government has to Indian tribes. It's not an easy task. We have a series of

tortuous treaties and legislation folowed by Appellate court interpretation which I have found less than helpful. I would hope to keep that as a very high priority if confirmed. Much of my briefing time this past week has dealt on that very subject.

Senator DOMENICI. I take it then as you handle these matters that pertain to Indians, you will not hesitate to involve the Indian people and the Indian leaders themselves in your discussions, is that correct?

Judge CLARK. You can be assured of that, Senator. I'm already in communication with them, as limited as it must be at this time. Many of the tribes have been in direct communication with me by telegram; the association representing 175 tribes here has asked for and has received assurance of meeting within the week following confirmation.

Senator DOMENICI. Now my time is almost up on this round and I want to just ask you one question, Judge Clark. While I couldn't be here the entire morning, I had to be elsewhere, and I was with some of the Senators at the White House for an hour and a half of this morning's meeting, but I understand that you indicated the President had asked you to take this job and part of it was to review the policies and procedures presently existing within the Department. Is that a fair assessment of what you said?

Judge CLARK. Yes, Senator.

Senator DOMENICI. Let me ask you in that regard, do you intend to involve the effective groups in the United States, both those on the business side and those organizations that purport to be more concerned about the environment, do you intend to communicate with them as you do this review so that you get both sides, input from both sides?

Judge CLARK. Yes, Senator. Following the President's announcement on October 13 of his intention to nominate me, I received seven or eight communications within the next 24 hours from group who represents those who have varying interests in the environment. Each asked to either come in and meet with me or for responses to a list of questions. Those requests have been complied with, thanks in part to the assistance of a couple of your colleagues here on the committee who set up a meeting here. I had two or three separate meetings in my White House office with some of the same groups.

If confirmed, my duties include listening to all interest groups as well as local governments. If I learned anything from 12 years on the bench it is to listen when necessary. I sense today that will be a necessity, if confirmed.

Senator DOMENICI. I ask you then, is it fair to say if you're going to listen to these diverse groups that there is a chance in your review process that you might reassess some of the positions and policies of the Department? I submit if the answer is not unequivocally yes it would appear to me it's rather useless for people to communicate.

Judge CLARK. That's correct, Senator. It would be a waste of their time and mine if this process is nothing more than a pro forma review of policy. This process goes beyond that. It's been suggested that the 20 or so groups respresenting environmental interests represent some 9 million of our citizens, and there is a lot of

competition, if not conflict, among them, I've heard that already just in the few meetings I've had. But I'll attempt to hear all interested parties.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator WALLOP. Senator Bumpers.

Senator BUMPERS. Judge Clark, can you name one policy of James Watt's that you disagree with?

Judge CLARK. Senator, going to your question for a moment, I have not thus far in my appraisal weighed out whether I disagree or agree with what Mr. Watt has done either with respect to policy, its implementation, or in explanation of that policy, any more than I have looked at Secretary Andrus' Hathaway's, or others. I may get to that at some point when I confront specific issues, just as I did at the State Department. I would occasionally pick up the phone and talk to Dr. Kissinger or someone who had been through the same issue. But from the standpoint of analyzing policies and recommendations at Interior, I have not sat down and asked myself where do you agree with James Watt and where do you disagree with him. I'm trying to take it on a case-by-case basis and that process can be completed only after I get over there, if confirmed, and am able to hammer out these issues with experts in the Department and with many of you. That has already begun. It began before today and a lot more of it has come through today.

Senator BUMPERS. Judge, in the past 3 weeks I take it you've been wood-shedded continuously by personnel from the Interior Department about all of these matters. I wouldn't expect you to know all there is to know in 3 weeks about policies and laws which regulate the Interior Department. You've been in the White House as a very close advisor in another capacity. But James Watt, according to most posters, has consistently for the past 12 months had the highest negative rating of anybody in the Reagan administration. He's been a veritable lightning rod.

Have you and the President ever discussed the Secretary and said we wish he hadn't done that or we wish he would change his policies? Did you ever call him and say how about cleaning up your act?

Judge CLARK. Senator, first of all, in the past 13 days I believe I've had three meetings, full meetings, with members from the Department. We went from bureau to bureau, covering all 10 bureaus, raising certain areas of concern on the issues. I haven't been through the Department yet.

Senator BUMPERS. Have you been to the building?

Judge CLARK. I went in the building one night to meet the Under Secretary about 2 weeks ago. He assured me of their full cooperation in supplying me with answers to questions that I had. That was the only occasion.

On the other points, Senator, we have a pretty clear division of labor at the White House and I simply——

Senator BUMPERS. You just weren't involved in it in your position?

Judge CLARK. No, sir. I would attend meetings if there were a national security issue and once that was resolved I'd hurry out. There was overlap, of course, on Law of the Sea and metals——

Senator BUMPERS. Do you know one person at the Department of Interior that you would fire if you were confirmed?

Judge CLARK. No. sir; the same answer as before. I simply have not reviewed personnel and that's a ball game all of its own. However, it's within the mandate for review.

Senator BUMPERS. Let me ask you this question. Secretary Watt intended to lease approximately 10 billion tons of coal in the next 12 months. His original basing schedule would lose more coal than has been leased in the last 61 years. Considering the fact that we've got about a 172-year supply of coal already leased at current production rates, does that make sense to you?

Judge CLARK. Senator, I think it's moot because there's a hold on all coal leasing. Even the pending leases as I understand it, there are four major ones——

Senator BUMPERS. I'm asking you as a matter of policy. I recognize the Linower Commission is studying this and I recognize its's moot from the standpoint that there's a moratorium which incidentally was vigorously opposed by the administration. I'm just asking you whether it make any sense to you to lease another 10 billion tons of coal when we've got about a 172-year supply leased already? Would you expect the Government to get a fair market value for its coal if it does that?

Judge CLARK. Senator, I have no idea because I simply haven't reviewed the coal tonnage. I know something about the long-term resources and that half of it or more lies in the West, but as to what should or should not be leased and on what basis, I will wait to see the Commission's report before making my determination.

Senator BUMPERS. I notice on your financial statement you have what you describe as rental income from the Phillips Oil Co. Is that income from an oil and gas lease?

Judge CLARK. Senator, if I recall, it is a lease covering not only our 800 acres but some 300,000 adjoining acres. It's a huge lease.

Senator BUMPERS. I'm only interested in the lease on your farm.

Judge CLARK. I think it involves oil and gas.

Senator BUMPERS. Are there any oil and gas producing units on your farm?

Judge CLARK. No, Senator. There is no production on the 300,000 acres that I'm aware of.

Senator BUMPERS. How much do you get from that 800 acres a year?

Judge CLARK. From what income?

Senator BUMPERS. From the Philips Petroleum Co.

Judge CLARK. I receive none.

Senator BUMPERS. Who gets the money? The children?

Judge CLARK. The children, I think, at least when it was signed.

Senator BUMPERS. When was that?

Judge CLARK. Probably 5 or 6 years ago.

Senator BUMPERS. Did you get a bonus when you leased?

Judge CLARK. No, sir. I believe the terms were straight rental of about $10 an acre.

Senator BUMPERS. A year?

Judge CLARK. Yes, sir.

Senator BUMPERS. For an annual lease you get $10 an acre?

Judge CLARK. Yes, Senator.

Senator BUMPERS. And there's no production within miles of your farm—is that correct?

Judge CLARK. The closest production would be probably 30 miles in the river bottom. It's old production.

Senator BUMPERS. The Bureau of Land Management has three methods for leasing onshore lands for oil and gas. Are you familiar with those three methods?

Judge CLARK. No, I'm not, Senator.

Senator BUMPERS. If your land was owned by the BLM you'd be getting $1 an acre a year for it instead of $10 an acre and you'd be getting that because of two things. Either somebody got it for $1 an acre out of a bingo lottery, or, because it had never been leased before, somebody just came in and offered you $1 an acre for it and you would have had to take that.

Are you familiar with the term "known geological structure"?

Judge CLARK. Yes. May I correct my earlier answer? I thought you might be referring to appraisals. I am acquainted with the three methods of leasing on BLM lands, the simultaneous, the over-the-counter, and competitive bidding.

Senator BUMPERS. Have you had a chance to look into any of those leases?

Judge CLARK. Not the leases themselves. I'm aware however, of the issue. I am aware of the fact the Department has found over the years, certainly since 1960 when the so-called lottery or simultaneous method of leasing began, that the mechanical approach of determining known geologic structures has perhaps not kept up with technology. Therefore, they now temporarily suspended that method of leasing. I believe, however, over-the-counter and competitive leasing continue as they've done in the past.

Senator BUMPERS. Let me ask you about a policy which is not related to James Watt because it's been going on for some time. That is the so-called lottery system of leasing lands for oil and gas. The Secretary has discretion to lose. As a matter of policy do you think that's a good way to be a good steward over the public domain?

Judge CLARK. I find it most interesting. I've asked for the rationale of simultaneous where certain numbers representing blocks of acreage are put in a barrel and drawn. I understand that $75 gives the interested party——

Senator BUMPERS. $75 netted for one party about 3 weeks ago $7.6 million which normally would have gone to the Federal Government except for the lottery system.

Judge CLARK. I understand that case and, as a result, the program is on hold now for 6 weeks or beyond, pending review. Going back to the rationale for a moment, I too was curious upon hearing of this noncompetitive approach to leasing our assets. I was told that starting around 1960 and again with authorization from the Congress, that once determining that that area of unknown quality was simply going without exploration and therefore without production. Therefore, the lottery system was created realizing some $100 million a year in Federal income and opening up areas for independent drillers that would not otherwise be drilled.

Now that's the rationale for it. Concurrently there's the over-the-counter noncompetitive bidding and, having been reared in a competitive society, I understand your feeling that perhaps we should

be a lot more competitive and have a lot less noncompetitive leasing. There seem to be moratoria all over the Department. It's something that I would want to review.

This moratorium was created, however, not by the Congress, but by the Department itself. It's also a State problem I understand. It's a local law enforcement matter. There are unscrupulous people taking tense bids and somehow merchandising them, realizing that only 1 in 2,000 will come up with a winning number. There's a lot to be concerned with. It's not a new system, but one obviously requiring some review.

Senator BUMPERS. Thank you, Judge. I'll pursue that a little further with you on the next round.

Senator WALLOP. Thank you, Senator Bumpers.

Judge Clark, one of the things that concerns me is this country's institutional ability to make energy policy. I think I forwarded to you a copy of an address I was to make last week in New Mexico with regards to that. And I find that there are between two Houses of Congress, Cabinets of the Government and various Departments of the executive branch, there are 60 at least agencies, subagencies, committees, subcommittees, and other things which have direct policy say at one level or another of energy policy. One of the things that has happened is the piecemeal Congress, partially in an emotional response to things they perceived were taking place, partially an emotional response to things that weren't taking place. And at this time we have the nuclear industry which has come to a halt. We have probably 50 million acres of public lands, not counting wilderness areas. We have moratoriums on offshore leasing and moratoriums on coal leasing.

If much of this is allowed to go on as has happened to Congress in the past on other moratoriums in the administration, we'll find that these temporary moratoriums run for a decade or more and we will as a nation find ourselves exactly where we were in 1973 and 1979. Just so you know there is another point of view and some have been expressed.

There is one Senator who believes, and my State is one which has had some of the same kind of problems, that it is not 100 percent a State issue whether or not an offshore lease is given or whether or not a lease on a mountain tract or a high plains tract or other things. It is well that you say that you will consider the interests and try to reach accommodation with Governors and political representatives, as overriding national interest as well, which puts us into a position of self-imposed insecurity which I hope is part of what you look at as you try to weigh in the balance the things which have been brought to you, to your attention today.

Judge CLARK. Senator, I shall. I believe man and nature can exist in productive harmony and that is the test. I recognize the varying views and the issue you state right here in the committee. I have had to field those in the meetings that I've had and I hope that they don't cease.

Senator WALLOP. I was hoping at least that you would be aware that some other thoughts were on the committee, the majority of which have been expressed. There is one area, and that is in the area of geothermal leasing. Clearly this country has an unrealized

asset, unexploited asset, but it's also an asset which has geological uncertainties about it.

With regards to leasing in the vicinity of Yellowstone Park, would it be your posture that the Old Faithful Geyser and that whole basin would be secure to the extent that it is scientifically possible to be secure before any leasing on the fringes or areas outside of Yellowstone Park could take place? I assume your policy like the other administration policy, despite what flamboyant talk is sometimes in the press, would not be to lease in the park.

Judge CLARK. Yes, I'm aware of the Caldera Fault issue, some 6 years old, as to whether tapping that source would interfere with the Statue of Liberty of the West, Old Faithful, and I can't imagine anyone in the Department among the 10 bureaus, expert or nonexpert, who would want to be a part of any problem in that plumbing, I'm confident. Senator Melcher this morning brought up the same issue, and again, from what I know at this point, the answer to that question must be obvious to us all.

Senator WALLOP. It was said from time to time that your predecessor thought mining leases or gas leases in the national park, I think that charge like many others was totally without accommodation. There was never such a thing.

Now with regard to the national park, you and I talked earlier on the increasing problem of public assets to them and trying to maintain the quality of the park system that is there. Your predecessor launched himself upon the really great efforts of refurbishing the public health and safety, in excess of the national park system. It would be my hope that under your administration the Department of the Interior would continue that program and continue to provide means for public ingress and egress and enjoyment of these parks to the greatest extent possible. Would that be something that you would feel comfortable with?

Judge CLARK. Yes, Senator. In that regard, I know expense has created a question whether there should be admission fees. I'm told my grandfather prohibited the first automobiles in Los Padres from going into the forest on the basis that automobiles were both a health and a fire hazard. Obviously times have changed. You move to 1915, I believe the park entrance fee at Yellowstone was $10. Equated out that would be several hundred dollars today. The policy has gone back and forth. I think there is a feeling in Interior now—again this is on short time and study—that maybe the consumer should be expected, and he does in fact expect, to pay at least a nominal amount for entrance to the parks, realizing, of course, that there may be exclusions, such as the elderly or children. The idea is that the user may appreciate the asset more if he has to invest a dollar or two in order to use it. At the same time it would help support and maintain the particular facilities.

Senator WALLOP. It would be my hope as well that we can do something about the circumstances that they find themselves on a park-by-park basis. It simply cannot be that the national interest is that no in holdings can exist that are otherwise compatible with the look of or use of park. I would hope that you would work with my subcommittee and this committee and see if we can't find the means by which we can relieve them of this incredible burden of property which is of no use or avail to them, only expense and

great misery, and force people into doing things that they don't want to do. In fact about the only way you can get paid for some of these things is to do, as was suggested here earlier, and I think it was the Senator from Louisiana, talking about the bulldozers on the edge of the property ready to go, and that's wrong to make them do that in order to protect their interests. I feel that very strongly.

So my time is up and it's now Senator Metzenbaum's.

Senator METZENBAUM. Judge Clark I haven't been here constantly but I have had my staff here, and in spite of the fact that you had indicated to the Wildlife Federation that you were prepared to answer specific questions vis-a-vis policy before this committee, I was here when you indicated to Senator Bumpers that you were not prepared to announce any policy changes.

I'm concerned that we're asked to consider a nominee for confirmation who is really dancing the light fantastic around the whole question of where he stands on some of these issues, and I'm asking you to put yourself in our position and tell us how we can fairly evaluate whether or not we should or should not be for your confirmation.

Judge CLARK. With regard to the last part if I may, Senator, I would hope that the investigative authority that this committee has to explore my background and experience would allow you to decide whether I have the qualifications to serve in this very critical post, without being expected to come in here today and give you an announcement of some critical change in policy or a new policy, I think the most I can do, and I hope I've done it, is to present myself on many of the critical issues, and I think we've covered a lot of them today, Mr. Chairman. We have disussed what the issues are and what the balancing test must be on those issues.

You heard a moment ago, I think it was in response to Senator Evans who asked about cost sharing. I outlined for given you what I consider to be the division, not only here in the committee but also within the Reagan administration, on those concepts.

I told you that I disagree in principle on this issue with my old friend Bill Gianelli. I can do things like that for you but to tell you we are or are not going to build more dams or try to increase the proposed $700 million for dam safety would be presumptuous on my part. As nominee seeking confirmation, I cannot even hint at that, other than to assure you I've been very much at work, even with my discussions with you earlier this week, starting my review of these issues. I simply, in good conscience, can't go beyond.

Senator METZENBAUM. But to come before us, not as an expert obviously—and every one of us who has some background has a gut reaction as to how he or she feels about—certain issues frankly it's been very difficult to get your thinking on In all fairness, with respect to the question about the Youth Conservation Corps, you did indicate that you thought that concept did make sense and as I have described it that you could be supportive of it.

But in connection with a number of other questions that I know have been asked of you, you have not, I'm told, and I'm sure my reports have been accurate, said I can be for this, I couldn't be for that.

Now I don't think you can be for $700 million, instead of $500 million or something of that kind. Nobody would expect you to be at this point. But we have another aspect of your life and your background to consider. And that gives us some concern because during the period of approximately 10 years you were on the California Supreme Court, 17 cases were heard that affected the environment.

Now I didn't make an indepth analysis, but we did go back to review that which others had done as an indepth analysis, and came to the conclusion that 15 were decided in favor of the proconservation side, but you dissented from each of those. And in five of those cases you were the sole dissenter.

Now do you think it's fair to describe your court record viewed as a totality with some possible exceptions as being somewhat anticonservationist?

Judge CLARK. Before I answer that can I go to the first part of your comment? If your staff feels that I have short-changed anyone on my answers on any specific issues of policy or procedure, I would like to revisit them at some point, either this afternoon or tomorrow or whenever you like.

On point 2, as a fellow attorney, you know that an appellate judge can't revisit his filed opinions for purposes of explaining the rationale of a particular opinion. On the other hand, it might help, Senator, if I mention something you perhaps know already, I was a member of a very active and some said progressive court.

Senator METZENBAUM. Be careful now.

Judge CLARK. In fact, many court watchers would say it was the most progressive appellate court in the United States. And I went to the appellate court having served on a trial court where I recognized the power, the overwhelming hindsight of a higher court.

When I got to that court I took a view that I guess stays with me today, and that is that appellate courts are created to interpret and enforce the law, rather than to make the law. The making of the law lies with people like yourself, Congress, and the State legislatures. During my tenure on the bench, I was particularly a strict constructionist. In that period of time I wrote more opinions than any other judge for a similar period of time. The majority of those were dissents. This was ture across the board, in both criminal and civil cases. We had no cases that were labeled as environmental cases or builder cases or appropriator cases. These cases like most of the tough ones that a supreme court lears considered many issues. Further, I did take a rather narrow view about statutory intent.

There is a 200-page Law Review article that's been referred to in the press. I think it's from UCLA. I have reviewed it quickly. I would hope if there's any question about the positions I took in many of these cases, that articles could be read. One paper, I'm told, summarized, the decisions in terms of environmental versus antienvironmental. I feel it would be very difficult from an attorney's standpoint to uphold any one of those cases on that basis.

Senator METZENBAUM. Can you think of any case which you reviewed when you were on the court which might be interpreted or someone might say that you wound up on the coal conservation or proenvironment side?

Judge CLARK. I think some are listed in that article. I would mention them not from my viewpoint, but only in an attempt to state what others said in characterization of them. One involved the city of Sweetwater, a redevelopment district, in which the city as I recall attempted to convert a golf course into a shopping center. I was assigned that case to prepare the majority opinion which held that it was an improper use and interpretation of that law.

Another one that I saw referred to in the article involved the American River in Sacramento, and the question of where a diversion point should be placed. The article pointed out that environmentalist groups, including water skiers, felt the diversion point should be at a lower point on the American River, the minicipal intersts sought an upstream point. My first opinion, again having been assigned the case, said we did not have jurisdiction because. Federal question was involved. The U.S. Supreme Court thought differently, remanded the case, and said the California court had authority to decide it the issue.

The article pointed out the diversion point favored to the water skiers and environmentalists. I thought it was an improper characterization. But again, Senator, we simply didn't approach cases, in a fast moving court as pro or con environmentalist or developer. You mentioned my dissents and the article did too. To be a frequent dissenter is a lonely spot, particularly late at night when I had to ask if it was worth the candle. I guess it was to a degree because the High Court across town later agreed with my dissents in a couple of cases, both criminal and civil. I think it's very difficult for any one of us to suggest that this or that Judge is more conservationist than another if he or she is trying to stick to the statutory intent, the congressional intent. And I might add my children feel I'm a rather strict constructionist. I feel it's necessary in this day and age that any of us who must interpret a law start with congressional intent, whether we like it or not. I assure you, if confirmed, I will start with that process, first asking myself what is the law, not relying on my personal opinion or inclination here no more than I did there, Senator.

Senator METZENBAUM. I have a number of questions that I want to get into and obviously my time has expired, but I would just ask you a very short one. With those children that you just mentioned who think you're a strict constructionist, would they vote for your confirmation to be an Interior Secretary?

Judge CLARK. Senator, I would hope so. They're home minding the ranch right now.

Senator WALLOP. Senator Bradley.

Senator BRADLEY. Thank you, Mr. Chairman.

Judge Clark, on December 29, 1982, Secretary Watt made a preliminary decision that Kuwait is a reciprocal nation under the 1920 Mineral Leasing Act which meant that our public lands could be leased to a company, Santa Fe International, that was controlled by the Government of Kuwait. In March of that year he reversed himself and said that they would not lease this particular land to Santa Fe International and indirectly to the Government of Kuwait. And the question is, has the Department taken any action

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to force Santa Fe International to relinquish its existing oil and gas leases, and under your tenure, would you do that?

Judge CLARK. Senator, I don't know for sure, I know the issue and I know it's in litigation at the moment. Whatever the Secretary's decision was in a discretionary area, it didn't last long because the judicial branch assumed jurisdiction which would tell me under normal circumstances that freezes action by the Department until the Court has spoken in that regard. And going to Senator Metzenbaum's question of what might be of concern from a policy standpoint—and I may have mentioned it or discussed it with you the other day when speaking of litigation—I do find when asked for the litigation file, and I don't know that it's any higher or any lower than the prior administration, but I counted 4,260 law suits pending in which the Department is involved. I guess background and experience would tell me whatever the number, it could be less Hopefully, relying on my superior court experiences, we could get in at an earlier stage with interested parties—particularly those whose names that appear over and over again in law suits—and try to work it out at a much earlier date, in recognition that once in the court system and with all due respect to that system, justice does grind slowly.

Senator BRADLEY. As a basic policy decision, do you think Secretary Watt was correct to reverse his position and say that the U.S. Government land would not be leased to Kuwait?

Judge CLARK. I can't say, Senator, because I don't know what he based his first opinion on, much less his second. Whether there were changed circumstances——

Senator BRADLEY. I think he based his first opinion on the fact that he felt it was not a violation of the 1920 Mineral Leasing Act and he must have read the act because the act says very clearly you can't provide Government land for leases to any country that does not reciprocate. I don't know too many limited partnerships that have been offered to drill for oil in Kuwait.

Judge CLARK. I don't know what his rationale was, Senator, but whatever it was, the Court itself is going to have to make that decision now. And again, with all of the attendant delay.

Senator BRADLEY. Are you saying you will not categorically state that as Interior Secretary you would not provide land, Government land for lease to Kuwait?

Judge CLARK. That will clearly be determined by the Court which is going to determine the ultimate question of reciprocity and whether the law that exists in Kuwait is reciprocal to our own. When that Court speaks, I think that will determine similar circumstances for any future Secretary.

Senator BRADLEY. Well I must say we looked at the record and I don't know of any American who has been given the right to drill in Kuwait, and the Mineral Leasing Act is fairly clear and I think that is the basis on which Secretary Watt reversed himself. And all I'm looking for is your concurrence with that second decision Secretary Watt has made.

Judge CLARK. I will not concur in it, Senator. He may have been correct, he may have been incorrect. The Court will determine that.

Senator BRADLEY. In your series of answers to Senator Melcher's questions, he said on a March 10 decision that there may be a de minimis exception to the application of this decision. In other words Secretary Watt said we won't lease U.S. public lands to the Kuwaitees, but there might be a de minimis exception. What legal authority exists for de minimis exception to the 1920 Mineral Leasing Act?

Judge CLARK. I have no idea what the Secretary was referring to or what he may have meant.

Senator BRADLEY. Could you provide the committee with memoranda that might tell us what he might have meant or what you construe him to mean, and what that will mean for your policy in this area?

Judge CLARK. I'll certainly look at it, Senator, and get back to you with an answer.

Senator DOMENICI. May we clarify? What is it you want him to do?

Senator BRADLEY. I would like him to give me a memorandum that explains how in the, what the de minimis exception means in Secretary Watt's response to Senator Melcher's question as to what is the de minimis exception to the ruling that he made on March 10, that no U.S. public lands will be leased to Kuwaitees. He said there was a de minimis possibility, de minimis exception. I'd like to know what that is and what is the legal foundation for a de minimis exception in the 1920 Mineral Leasing Act.

Senator DOMENICI. So even though it's obvious that Secretary Watt's not going to be the Secretary you want this man who might be to tell us what Watt might have meant?

Senator BRADLEY. No. I want him first, Senator, to tell me what his policy is. He refused to tell me what his policy was. He said that it was a matter in litigation. I accept that fact. That's his right to say that to the committee. I then wanted to know his thinking and I didn't want to put him on the spot necessarily in the committee, but give him a chance to respond with a memorandum.

Now there are various ways that you can handle this kind of thing.

Senator DOMENICI. I just want to make sure what he sends us for you is what you want. You don't want his views, you want what he as a professional I assume, what Watt might have meant by the de minimis rule.

Senator BRADLEY. I would like to know the judge's view as to how he construes the possibility that there could be a de minimis exception to the 1920 Mineral Leasing Act. If he does not construe that there can be a de minimis exception, he should state that, and then when the court speaks and says that you can't lease public lands to the Kuwaitees, then we will know his policy, that there is no de minimis exception.

If on the other hand a legal memorandum he provides us says he believes there is a de minimis exception, then that's a loophole no matter what the court says. That's what I want.

Senator DOMENICI. That's much different than what you said before. Will you provide that to the committee?

Judge CLARK. Yes, I understand, Mr. Chairman. That will be provided.

Senator BRADLEY. Since you took 3 or 4 of my minutes in asking me questions, may I have an additional 3 or 4 minutes just to cover another area?

Mr. Secretary, I am very interested as you know, and we've talked about the whole urban park program and wondered what are your views toward urban parks?

Judge CLARK. Senator, we have two active urban parks in America. Our own Golden Gate Park in San Francisco, and a park in New York. Looking at the very definition of a park as land set aside under certain conditions so that all of the people might enjoy its access and its assets, it's a concept rooted deeply in America. It's one thing we beat Europe to, and they are now modeling their own on ours.

Senator BRADLEY. So you do believe that the National Park Service has a role in running urban parks?

Judge CLARK. Yes, Senator. The Park Service should be involved in running them after appropriate establishment and that has been a real congressional prerogative right down to entrance fees. I find no problem with that concept. It's the American idea.

Senator BRADLEY. Thank you very much.

Senator DOMENICI. I understand that Senator Ford would be next. You don't want the full 10 minutes.

Senator MURKOWSKI. No; I just need a few comments and observations, and a question or two.

The CHAIRMAN. It would be quite satisfactory. It's getting warm in here.

Senator DOMENICI [presiding]. You're next. You have 10 minutes.

Senator MURKOWSKI. Judge Clark, I wonder if it is appropriate for you to try and relate to this committee how you see the committee itself attempting—well, have you been, or lean toward either a proenvironment, or a point of view against the environmental point of view?

And perceiving the questions that have been directed to you, how you anticipate in maintaining this balance when you are confirmed as Secretary of the Interior because having participated a good deal in the pointed questions that I directed obviously those that are motivated by the pro or the extreme environmentalists, want you to respond to something very positive and reassuring to them.

And those that are somewhat concerned, as we are in the State of Alaska, where we have about 365 million acres of land, which 223 million acres has already been withdrawn in various national systems including about 74 million acres of national wildlife refuge land, and some 51 million acres of national park system land, some 22 million acres of national forest system land, and some 76 million acres of other public domain land, the wilderness areas, scenic wildlife refuges, all of which we are extremely proud of. And we look as Alaskans with tremendous trust in responsibility as much as we are the last frontier. And we dearly appreciate the trust that has been placed in those lands being associated in our State. But are continually confronted with proposals from my good friend Congressman John Dingell, who has indicated that an additional 22

million acres, national petroleum reserve in Alaska, be added to the national wildlife refuge system.

And the analogy there is obviously one that environmentalists would approve. And those that are committed to energy independence would question. And here we have you presented before us to reassure us whether you're going to lean one side or the other.

The question that we Alaskans offer is that we are not concerned with the realities of what's in existence. We're simply concerned with how much is reasonable, how much is enough. We are proenvironmentalists. We are conservationists for the most part. And I consider myself a conservationist.

The question is how can you in your capacity provide the assurance to both sides of the spectrum that you're going to be able to walk this middle if you can't do it from the standpoint of what you're held responsible for under the law. Give me some reassurance under the law of what you're going to do.

Judge CLARK. My answer may disappoint both sides. I will try to explain that.

When I was on the bench sometimes I was asked whether I considered myself conservative or not. My answer was consistently "I don't believe in labels. Those terms may be used by others as they wish."

I guess the highest compliment I was ever paid on the bench was by a notable legal writer in California, Bernie Witkin. After my second year on the supreme court he said that Clark was predictably unpredictable. I was trying to take cases issue by issue, and let the chips fall where they may, in both criminal and civil cases.

Senator, I don't see that I can approach this job any differently. If confirmed, the tough decisions are going to be there. I'm going to have to start first with the law. The law is created by this body, hopefully after consultations with the executive branch. After I understand the law, I must then look at intent and apply it to the facts of the particular case. It's fairly similar to what I've done over the last 20 years of my career.

I just can't really tell you which way I lean because I think we have to take it issue by issue, case by case, whether it's the Kuwait question, or dam safety, or upfront costs and cost sharing.

I can give you assurance, however, as Senator Jackson said in the statement I quoted this morning when he spoke of the integrity of the decisionmaking process. If I'm asked to take the oath of that office, that is a part of the oath.

So I probably haven't helped you, but——

Senator MURKOWSKI. On the contrary, Judge Clark, I think you have. You basically answered my concern that you're going to be objective, and I think what we have to satisfy ourselves is that you have the integrity, the basic ability, the knowledge, to manage the stewardship of public lands in the United States, that you would be responsive to public opinion, but ultimately you will uphold the law of the land.

Mr. Chairman, that is the reassurance that I had hoped you would provide me, and as one member I intend to support wholeheartedly your nomination as Secretary of the Interior.

Thank you, Mr. Chairman.

Senator DOMENICI. Thank you very much, Senator.

Go ahead, Senator Ford.

Senator FORD. Thank you, Mr. Chairman.

Judge Clark, Senator Metzenbaum referred a moment ago to a gut reaction. We also hear two words "common sense." It's not used very much around here, but it's often you see it written, and stated.

Let's go back to Senator Bumpers' position earlier, and let's talk about a gut reaction, or a commonsense approach to it.

And the background of his question, I think he gave it, but I'm going to give it again.

Secretary Watt's coal leasing program, if fully implemented, would place under 20-year lease as much coal as has been leased in the preceding 64 years, roughly 18 billion tons of Federal coal are now under lease. And 2 billion tons has been leased under Secretary Watt's program, and the Department plans to offer another 11 million tons in, I believe, fiscal year 1984.

Now, with 170 billion tons already available, and about 600 million tons annually, give or take, extracted annually, would it make sense to you that if you put 11 billion tons of leased—for lease on the market, that you would get any kind of a premium for that?

Judge CLARK. Senator, you make a persuasive case, but I haven't heard the other side. On that basis I simply can't answer your question because most of these issues have several sides. And so——

Senator FORD. Well, I just thought maybe you might have a gut reaction to that. And apparently you don't, and then I was hoping for a little commonsense to come through, and I didn't get that either.

Judge CLARK. Well, I can see that there's a little gut wrench there with the figures you've used.

Senator FORD. Well, I just gave you the figures from the Department, and I haven't given you any other—anything different that came out of the department you're getting ready to take over.

Judge CLARK. What the Department plans to do next year, presumably, will be determined, at least in part, by whoever is Secretary.

Senator FORD. It's very difficult for those east of the Mississippi to try to understand how some of these 11 billion tons could be leased when we have available, you know, all the coal that we can—it's there to sell. We just look at the ability to get it cheap, and delete it, and the Government and the taxpayers receive very little for it are at a loss rather than at a premium.

And so that is a fear that I have, and I want to express that. And if my case was effective at all, I hope you'll remember that.

Judge CLARK. It is, Senator, and I'll remember it because you're not the only one stating it in my meetings this week. I have heard from your colleagues on the same issue. I hear you.

Senator FORD. We'll be coming back.

Let me ask you this then, do you favor the right of States to impose their own severance tax on Federal coal?

Judge CLARK. Senator, I understand your question. In the broad context the severance issue is a difficult one. I'm not going to give you a preference on whether there should or should not be a severance tax at this time.

Senator FORD. Well, the law gives the Secretary the ability to set, I believe, it's up to 12½ percent, or cents, I'm not sure. Can you help me with that 12½ percent?

Judge CLARK. Whatever it is——

Senator FORD. Twelve and one-half percent.

Judge CLARK. All right.

Senator FORD. And it's something less—and you lower it underground. It can be lower underground.

So you can do that now.

Judge CLARK. Well, whatever it is, Senator——

Senator FORD. But then I want to talk about the States.

Do you favor the States allowing them to have a severance tax on Federal coal?

Senator DOMENICI. Did you ask whether we have any—the Secretary has no authority with reference to State authority.

Senator FORD. I understand, but the Federal authority is 12½ percent, isn't it? But something less, or at his discretion, from underground.

Senator DOMENICI. The Senator is correct.

Senator FORD. You said you understood my question. Can I get a yes or no answer, or can I get an answer?

Judge CLARK. The question is whether I have an opinion on the imposition of State severance tax——

Senator FORD. On Federal coal.

Judge CLARK. Senator, that's one I'm going to have to look at because I don't know existing law on this subject at this time.

Senator FORD. Well, do you favor surface owners consent over federally owned coal?

Judge CLARK. Surface owners consent——

Senator FORD. That's right.

Judge CLARK [continuing]. Over federally owned——

Senator FORD. Yes, sir.

Judge CLARK. Consent to what, Senator? I'm sorry.

Senator FORD. The regulations promulgated by Secretary Watt have limited once existing protection for those surface owners, surface owners, who do not consent to having their land strip mined. The result of these changes is to increase the pressure on the surface owner to consent, but he has a right not to consent to having his land mined.

This flies directly in the face of congressional intent when it was enacted, and the provisions of SMCRA giving protection to surface owners. These changes worked to the advantage of the coal companies over the landowners in trying to obtain surface owner consent.

Judge CLARK. Well, Senator, this is one that I hope after a little review you and I can sit down and discuss.

Senator FORD. Let me ask you this, Judge. This will be three. We'll try one more time.

After several months of debate this committee just reported S. 457 by a narrow margin. What is your view of giving the Secretary of the Interior the authority to sell wild horses and burros at public auction for commercial purposes such as pet food, zoo food, and export for human consumption.

Senator BUMPERS. Are you a friend of Lorne Green's or not?

Judge CLARK. Well, then again, relying on background experience, it's hard to put a horse down, and it's something you don't usually do yourself. You invite a neighbor over to do it for you. Luckily in this generation we have members of Senator Melcher's profession who will come out and do it for you.

I know the issue. It's an old one. Our specialists say that our ranges can adequately carry about 25,000 horses and wild mules, but we have a population of some 57,000. The good neighbor policy works to a degree, but it hasn't kept up with the population.

I will first wait to see the result at the congressional level. I am told that there is now a plan which allows the sale of some 3,500 animals a year——

Senator FORD. That was the legislation that was passed out of the committee?

Judge CLARK. Yes, projecting that, it would take some 10 years to bring the wild horse population under control, and that authority can be exercised only under certain conditions.

Senator FORD. This is in addition to the adopting of the horse adoption plan.

Judge CLARK. Yes, I understand.

I think this is an example of a case where there should be another alternative or two to avoid what you have referred to as maybe abuse of those animals. And I have asked some questions of the Department. I will ask some more.

One of my favorite horses in life was one of those wild horses. In fact, he somehow got into Time magazine here a few months ago. He was a strawberry roan named, Macaroni, and he died a natural death after a good long life on the range.

I would hope that the same could be the case in what has been termed a "surplus."

I will look at it and see if the Department ought to be able to find another answer to this problem, particularly in view of the close vote of 10 to 9 with 1 abstention or absentee.

Senator FORD. Well, you indicated that you would like to do something different.

Mr. Chairman, could I beg the indulgence for one quick yes or no answer?

Senator DOMENICI. Sure.

Senator FORD. As a member of the Cabinet, do you expect to be Chairman of the Cabinet Council on Natural Resources, if you are confirmed?

Judge CLARK. Senator, that is the plan. The Secretary of the Interior is the Chairman of that Cabinet Council, and——

Senator FORD. Do you expect to be that if you are confirmed?

Judge CLARK. Yes, sir. And——

Senator FORD. Got a yes—don't——

Judge CLARK. All right, Yes. Thank you.

Senator FORD. I might tell you Montana's severance tax over the 12.5 percent is 30 percent, and that makes it 42.5 percent severance tax on coal coming out of that one State.

Senator DOMENICI. The Supreme Court found that was all right. Is that right, Senator?

Senator FORD. The cost to the people may not be right. The Court made—its decision—I know, but we can change that. And there is

a move on to limit the severance tax. I just want to get his position on it.

There will be some legislation, probably already some legislation introduced to limit the amount of severance tax that can be imposed by States, and therefore may be some reduction in the 12.5 percent that the Federal Government imposes, also, in following in that context, if the other is successful.

I just wanted to try to get a view because it is coming, and the Department will have an interest in it.

Senator DOMENICI. Right. We have different views up here.

Senator FORD. Oh, that makes it good.

Senator DOMENICI. It is fun. It doesn't make it——

Senator FORD. If we all agree, we can just send in our proxy.

Senator DOMENICI. We could do that.

Senator FORD. In any event, Senator Bumpers is next.

Senator BUMPERS. Now, Judge Clark, we have talked a lot here this morning in opening statements about the Secretary of the Interior's job being one of the most important jobs in this country, because the Secretary have responsibility for hundreds of millions of acres of land, their preservation and their conservation.

How do you feel about the so-called privatization of public lands, that is, the proposal that was made early in the Reagan administration to sell off public lands to balance the budget.

Judge CLARK. I am aware of the concept.

Well, maybe I'll give the facts first.

As I understand from in responses to my own questions on this, there have been no appreciable sales of Federal lands to balance the budget or to realize any other goal. In fact, only some 10,000 acres have been sold under the old criteria of BLM, that is: One, isolated, uneconomical facts;

Two, land that ceases to be used for its original purposes, becoming uneconomical to manage; or

Three, land that is transferred to a State or local government for some higher purpose.

The policy or process to which you referred is no longer pursued by the Department. I believe that is the way our Government should work, by constant review. There may be new and different ideas, but the administration should also have the duty of changing that policy when circumstances change, and when it has been proven unworkable.

And I think that may have occurred with the concept privatization.

Senator BUMPERS. The President and the Department really got the attention of Congress in the fiscal year 1983 budget. They proposed raising as much as $17 billion over a 5-year period in the sale of public lands.

Now, most of this acreage was to be derived from Interior and Agriculture Department lands. Secretary Watt said that as much as 35 million acres or 5 percent of the total Federal lands held by the United States might be sold.

Now, as you correctly point out, this plan has not been implemented. As a matter of fact, even Secretary Watt promised that he would not seek any additional sales of land.

Do you agree with that?

Judge CLARK. Totally.

Senator BUMPERS. Thank you. That is a good answer.

Have you and the President discussed his possible appointment of you to the Supreme Court?

Judge CLARK. That was discussed, Senator, in 1981, in the briefest way. It was a personal thing. Normally, you wouldn't bring out, but I will answer your question.

Senator BUMPERS. Well, it is not totally relevant to this hearing, of course, but it is common knowledge that if President Reagan runs and is reelected for a second term, he may make as many as three or four Supreme Court appointments.

Have you discussed it with the President since 1981?

Judge CLARK. No, and as long as you have brought it up, Senator, I would like to mention that conversation.

There was a question of whether I wanted my name considered for a vacancy that existed at that time, and I said "No." I did not want to have my name placed in consideration even for the briefest time, and I can assure you that that intent has not changed.

Senator BUMPERS. I am not asking you to commit, Judge Clark, if, in 1985, President Reagan is still President and offers you the job whether you will accept it or not. I am a lawyer, and, of course, that is the very highest honor that can be bestowed on any attorney. Even though you may not like the Washington life, that would be a very heady offer and be very difficult for you to turn down. Wouldn't you agree with that?

Judge CLARK. Well, let me say that——

Senator BUMPERS. He had better not offer it to me, I'll put it that way.

Senator DOMENICI. He won't. [Laughter.]

Judge CLARK. Before I am poked by my wife back there, I want to tell you, for her and for me, that you have asked a relevant question. Our hope is to return to that ranch, when this assignment is complete. I am most sincere in telling you that, Senator. That is, of course, if I am confirmed. Otherwise, it will be sooner rather than later.

Senator BUMPERS. Let's get back on this matter. We were talking this morning about stewardship of the lands.

What is your definition of stewardship?

Judge CLARK. Stewardship suggests a trust, a public trust, and a very fragile one because you are treating property not as your own, but as someone else's. Therefore, the duty with respect to the treatment, the management, acquisition and disposal is a very grave one.

Senator BUMPERS. Would you feel compelled to manage the public domain as if it were your own land?

Judge CLARK. As I said, I think it is a higher duty, Senator.

Senator BUMPERS. An even higher duty?

Judge CLARK. Yes, sir.

Senator BUMPERS. Because you are dealing with someone else's property?

Judge CLARK. Yes, sir.

Senator BUMPERS. Then, do you believe that the Department of the Interior through its leasing policies ought to get fair market

value for its resources or the highest dollar for the benefit of the Treasury and therefore for all the people of the country?

Judge CLARK. Generally, but, again, as a fellow lawyer, there are exceptions to that.

Senator BUMPERS. What are they?

Judge CLARK. A recent example is a piece of property, not large in acreage, in Oregon—I believe it was Lane County——

Senator BUMPERS. Oh, I'm not talking about that. We have all voted to override the Presidential veto, if that is the bill you are talking about.

That was just a question of morality. But generally under all the BLM leasing policies, what exceptions would you make to the proposition that the U.S. Government ought to get the best return possible for its resources? Once they are gone, they are gone.

Judge CLARK. Senator, that is a duty but, again, there is an exception. That is in the granting of Federal lands to States or lesser governments for statutory purposes such as schools and certainly the entitlements States were promised when they became States. We are just now getting around to delivery on those promises. Last year I think the Department transferred 180,000 acres on that basis.

However, as the general rule, fair market value must prevail.

Senator BUMPERS. Thank you.

Senator DOMENICI. I recognize Senator Wallop.

Senator WALLOP. Mr. Chairman, I really don't have much more in the way of questions for Judge Clark. I think he has comported himself extremely well.

Judge CLARK. Thank you.

Senator WALLOP. I would just say by way of observation that if the Federal Government, and the Senator from Arkansas knows my disagreement with him on this, is in desperate pursuit of the highest dollar for everything that it has.

That same citizen who is getting the highest dollar becomes the consumer of that product and suddenly has an economic interest that is not being so well served from that perspective.

But there is a balance, and availability of resources to have reasonable prices when they are abundant is one of the interests that I believe the consumer is entitled to when he takes off his hat as custodian of these properties and puts on his hat as consumer of the resources that the country possesses. He has a dual interest, as does your job require a dual appreciation.

I would also point out that if it hasn't been already that I for one am grateful to find that you were not always in agreement with the supreme court in California, which has been characterized in a UCLA law degree article as having been extremely biased.

The 1980 view of that says the most important finding of this study was that the California Supreme Court from 1967 through late 1977 was extremely preservationist as distinguished from development-oriented. It is a finding so dominant that it overwhelms almost all other variables in this study as if nothing else in the case mattered. And I believe that your statement, that you tried to do what the law required you to do even if, in some instances, she didn't totally agree with where it was going, it shows one of bal-

ance and perspective that I hope to find in the rest of your career as Secretary of the Interior.

I also would make the observation that I am glad that you have some reservations, at least, with regards to the position of the corps on cost-sharing, water projects, and other things. It does continue to amaze me that that is the one public works project in America which is paid back. Now.

And cost-sharing is already part and parcel of its concept. It pays back highways, runways, post offices and all kinds of other things that the public willingly puts out tax dollars for, and farmers do and have had an obligation to pay back what they have.

The issue of dam safety, I agree with you on. Perhaps I would go even a little farther.

My feeling that, in essence, we are a Nation buying an insurance policy when we take care of the safety of dams. Well, we might argue as to the appropriate share of a group of users to modify a dam to comply with engineering standards that didn't exist at the time the dam was constructed or new scientific data that has only recently become known, that while we fiddle with that we have had an indication of what might happen when, in Idaho, this very week. An argument left unresolved over a quibbling portion of whose responsibility that might have been will end now costing this country endlessly more dollars, emergency funding, and damage recreations, and all kinds of things that go with that.

The one was the Teton Dam. I mean, admittedly the country does not admit to an obligation, but it always picks up its obligation, and so it just as well admit to it because I cannot imagine a Federal dam bursting and any President of the United States allowing those people to just wash away and not address it. So, as an insurance policy, it is better to get a dam made safe than it would be to go along.

I am just expressing another side of some of the views that you may have heard, so that when you do go to bed tonight figuring that somebody is going to be tugging at you whichever side you come down on on these issues. That is the beauty of the system that we have.

I have no questions at this time, Mr. Chairman.

Senator DOMENICI. I have no further questions. I understand that we have a couple of Senators en route.

Senator BUMPERS. You have one here.

Senator DOMENICI. You just finished. I wanted to see if we had another. I will get you in a minute.

Now, is Senator Metzenbaum coming back? Is he—do we have some others that are coming back? I'm trying to get an idea of how long we shall meet—and also Mr. Bradley. OK.

Senator Wallop, I am going to have to leave, so I hope you can chair for a while, can you?

Senator WALLOP. I'll be able to be here for roughly an hour.

Senator DOMENICI. The Senate is in until 6, is that basically about——

Senator WALLOP [presiding]. I will have to leave prior to 6 o'clock.

Senator BUMPERS. Senator Wallop has raised the question that there ought to be exceptions to competitive leasing in order to protect the consumer.

Do you agree with that statement? I'm not asking you to disagree with a good fellow Republican and a Senator from Wyoming, but I'm asking you how you determine when you're going to make those exceptions? Who is going to be the beneficiary of the exceptions other than the consumer?

Judge CLARK. Offhand, I can't think of exceptions due to the——

Senator BUMPERS. While you're thinking about it let me say another thing.

Wyoming was the last State in the Nation, and about the only State in the Nation, that held lease lotteries. And even that become too much for Wyoming to stomach. Wyoming changed the law this last July.

So that the U.S. Government is the only governmental entity in the country that still gives away its resources by lottery.

Senator WALLOP. Senator, I would appreciate it if you would not characterize the actions of my State without a thorough understanding of them.

Senator BUMPERS. Is that not correct?

Senator WALLOP. It's correct. We changed it, but not for the reasons you stated. If you care to go into that do it some other time. You have a misunderstanding of why we changed it.

Senator BUMPERS. Senator, you have your time coming in just a moment.

Let me just direct your attention. In July of 1983 Wyoming replaced its lottery system with a competitive auction citing three major reasons for the change:

The lottery system encouraged fraudulent practices; the lottery may have violated statutory prohibitions against gambling; and more revenue would be generated by a competitive system.

Is that inaccurate?

Senator WALLOP. It's my understanding that it is.

Senator BUMPERS. This is from your land commissioner's report in which the recommendation was made.

Senator WALLOP. You can do what you like if you want to waste your 10 minutes on this.

Senator BUMPERS. I'm not going to waste my time. You suggested that somehow I had misrepresented this. I'm telling you what your own commissioner said was the reason for abolishing the lottery system in Wyoming, which I think is a perfectly valid one.

The system has absolutely been rife with fraud for the past 5 years, and that's just how long I've been involved in opposing it. The system cannot possibly work. As long as you have a system that permits 97.7 percent of the Federal domain to be leased for $1 an acre, and only 2.3 percent to be leased competitively, and all of those noncompetitive leases are issued on a lottery basis or on a first-come, first-served basis, you are not going to eliminate the fraud. You have a moratorium in place over there right now because the Amos Draw lottery gave away $100 million of oil and gas resources for $1 an acre.

Those people who won the lottery made anywhere from $50 to $100 million. All they did was put $75 up to get their name put in

the squirrel cage. I don't see how anybody can justify such a system.

Two years ago in Arkansas, the BLM, which also leases national forest land, leased about 2,000 acres of land in my State for $1 an acre, its customary fee.

The State of Arkansas happened to own the subsurface rights to 80 acres in this tract. Because our State law requires competitive bidding, we got $103 an acre for our 80 acres, while the Federal Government got only $1 an acre.

Now, you can call that consumerism. I call it just outrageous. And my point is I don't see how in the world this system can be rectified, or patched up, without going to an all competitive system.

Now, Judge, that leads me to this question. I have introduced a bill which requires an all competitive leasing system, and despite everything everybody says to the contratry, CBO says that competitive leasing would not cost any additional money administratively, and that over the next 5 years it would generate $700 million more to the Federal Treasury. It will also eliminate all fraudulent practices that continue to crop up in the existing system.

Does that not sound like a fairly persuasive case to support changing to an all competitive system, especially when not one single State in the Nation has anything else?

Judge CLARK. You present a persuasive case, Senator. If confirmed, I no doubt would look at the other side of that case unless you want to present it here.

However, there are several aspects to this issue; First, the system is on hold. It's frozen now for 6 weeks. Presumably in 6 weeks, the moratorium can be extended by the Secretary of the Interior because the Secretary of the Interior imposed prohibition in the first instance.

Lotteries are not new. Land was claimed in your State and mine by lottery at one time. Many men went to the Army on a lottery. Some win, some lose. Some things get done as a result.

Senator BUMPERS. It's what happens under a bidding system too, isn't it, some win and some lose?

Judge CLARK. Yes, Senator, that is correct.

Senator, you do make a good case. And it's one, based on background information that I very much want to go into during the hiatus that exists with respect to these procedures. It's an opportune time.

I haven't today counted the number of moratoria we have, both self-imposed, and congressionally imposed. However, in light of these moratoria, I think it's an opportunity, if not a duty, to come together and try to look at the pros and cons of this kind of issue.

Senator BUMPERS. Judge, I'm not going to belabor that any further. It just happens to be a system that I have always considered egregious ever since 33,000 acres of land at Fort Chaffee, Ark., surrounded on four sides by producing gas wells was let for $1 an acre.

The Texas Oil & Gas Co. happened to be the happy beneficiary. And so I guess you could say the consumers got a big break. They would get a big break if Texas Oil & Gas would reduce their prices accordingly, but they won't.

Everybody knows that area is full of gas, and TOC got it for $1 an acre. Because I squealed like a pig under a gate BLM a year

later leased 24,000 acres in the same reservation right beside it which brought $1,705 an acre.

Well, it's very difficult for me to justify that kind of a system. And I'd also pointout that the 12 Amos Draw leases that went into the lottery by mistake were won by people who paid $75 each for them. And NBC, which did about a 5-minute segment on it one evening, said that they were the tracts sold by these winners mostly to Marvin Davis, who, incidentally had a big producing field that he discovered within eyesight of the Amos Draw tracts, bought most of them for between $50 and $100 million.

And incidentally, whatever they sold for, if they had been put up for competitive bids, and would have indeed brought at least $100 million, the State of Wyoming would have gotten $50 million instead of a few thousand dollars.

Judge CLARK. Well, we'll look at it, Senator. I refer to a sheep range. I can recall when we paid 8 cents an acre, not a month but for a whole season for national forest land. That obviously has jumped to $2 or $3 a month. I don't know what it is because the Congress sets the rates. There are a lot of factors in a free market society that go into each one of these pricing systems. I share your concern.

Senator METZENBAUM. Now, Judge, there are questions that Senator Bumpers was asking you about, and I recollect having read about Davis obtaining—not having disclosed to the Government that there had been oil developed on those lands, and his lining up a title.

Do you see as part of your responsibility to explore questionable property immediately, yesterday, as to whether or not there was any impropriety in the actions of Mr. Davis. And if you come to a conclusion that the Government's interest is not protected, to move to keep the transaction from being concluded?

Judge CLARK. The Department and the Secretary have such a duty, Senator. I think it was the Davis Oil Co., and allegations against that company which, in part, led to the suspension of the simultaneous leasing system for a determination whether there's fraud involved.

Senator METZENBAUM. The question really is have the transactions been concluded? Have the deeds been executed in favor of Mr. Davis' company?

Judge CLARK. I don't know whether that mechanical action has taken place or not. I can certainly find out.

Senator METZENBAUM. You don't think that even before your confirm, if they haven't been concluded that there is some degree of responsibility on your part to find the facts, make a determination as to whether there were or were not any improprieties, and if you come to the conclusion that there is some question about it, at least keep the deeds from being recorded until you have satisfied yourself that the Government's interest has been protected.

Judge CLARK. All right. To answer your question I have a duty starting right now to communicate what you have just told me to the department. I will do that.

As far as having any decisionmaking authority in the matter, no, I have none until taking the oath.

But I can get the information for you as I did for Senator Melcher.

Senator METZENBAUM. Well, certainly, Judge, if you said to them "until my confirmation is resolved I don't want anything to happen in connection with this matter," a man who is as close as you are to the President of the United States, nobody's going to question it. They'll hold the fort.

What I'd like to have you do is by tomorrow advise Bumpers and myself the status of that matter, and what action, if any—what action, if any, is being taken, or is not going to be taken.

Judge CLARK. All right. Your question will be treated tonight, Senator.

Senator METZENBAUM. Thank you. I appreciate that.

Now, Judge, as I told you the other day when we met —kind enough to stop by my office—there's a whole question with respect to the bidding in connection with outer continental shelf oil leases. And about 5 years ago, I think it was, I believe that I was a party to offering an amendment in this committee which provided for alternatives to cash bonus bidding.

The reason for the alternatives are quite simple. That if there's a very valuable tract, Exxon, Texaco, Gulf, whatever, the big companies, have the wherewithal to make cash bonus bids, and all the little fellows have no chance at all.

Now, the Department of the Interior at this point has failed to experiment with bidding systems that do not involve a cash bonus.

Now, the way you could do that is you could have a fixed cash bonus monitored to amount of money with net profit shares as the bid variable, or as a net or percentage of the gross. There are many formulations to be used.

But when you have the cash bonus up front it helps the big oil companies, and pretty much precludes the small ones from coming in.

Do you have a position as to whether or not you feel that a—the noncash bidding basis could be a part of the bidding procedures that are used in connection with a letting of OCS leases?

Judge CLARK. Senator, I know you directed the Department to consider either four or six alternative bidding methods. You also told the Department that if it is innovative and comes up with something else, you'll try that. At least we should come back up here and discuss it.

It's a complex question. I understand that on natural gas there are some 21 categories considered in these bids.

The present arrangement is resulting in roughly 30 percent of our income being produced from up front bonuses, and 70 percent from royalties.

I guess, if I understand your question, it is which of those might——

Senator METZENBAUM. Will you look at the problem and not just be cash hungry, but look at the problem and just say "well, we've got so much money. It's great," but whether or not the Government's long range interest might be better served if you had a variable and didn't get it all up front, but got it much more over a period of time.

Judge CLARK. Yes, Senator, I'll look at that. I understand the purposes.

I think this will probably, as you suggest, come under the whole OCS review over the next several weeks.

Senator METZENBAUM. I would certainly urge you to get the committee, and the small operators, to have a piece of the action. I think the Government's interest would be best served as well.

Let me ask a couple of questions about some of your cases.

You know that beachfront development, and public access to big beaches, is a highly controversial issue in California and many other coastal areas in the country. At least two cases, the city of Berkeley, the city of Los Angeles, the State supreme court majority ruled that the public has a right to access coastal beaches, and development rights are secondary to a public easement.

In each case you dissented.

Now, I have to as you. I understand the strict instruction, but the point is the whole army is walking down one way, and I sort of wonder about the one fellow who is out of step, even if they happen to be what you call Progressives.

The question that I have is: Have you ever thought with respect to whether property owners should be alowed to build condominiums or apartment buildings on coastal lands?

Just a general question, forgetting about that case, if it means that public access is to be restricted.

Judge CLARK. As a concept, I don't think there is anyone in this room who would disagree with what you are saying, Senator. But, again, as I mentioned earlier, I am responding to a question like this with one hand tied behind my back because appellate judges are not supposed to explain rationale.

However, I think I could go so far as to say that my dissent was not on a policy basis at all, or whether access is a good thing or a bad thing. It was on a rather important technical legal point. You will have to decide that.

Senator METZENBAUM. You know, when I practiced law, I always thought about sociological jurisprudence, which was that the judge decides which way he wants to go in his gut and then he goes out and finds the case law in order to back up that position; and I always thought if I could convince the judge before whom I was appearing that he wanted to let me win the case, he would find the law.

And what is concerning me is whether sociological jurisprudence has led you to the point where you have ruled so consistently against the environmental aspects, the conservation aspects of people using land and water and be more concerned about property rights.

For example, in the *Associated Home Builders* case, you dissented from the majority when it upheld an initiative which banned issuance of building permits until educational, sewage, and water facilities were completed were completed, to obtain certain standards.

Now, it seems to me that where representative government through an initiative should have the right to slow down construction and that, in this instance, you were in favor of throwing out the initiative, and the majority, fortunately, ruled to the contrary.

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And do you not concern yourself that the damage to the community, to the environment, notwithstanding the fact that you are a strict constructionist, but strict constructionists always be coming down and flopping on one side on the private property right issue because on a strict constructionist side you take the language of the initiative which would also prevail.

Judge CLARK. Senator, with all due respect, those opinions are going to have to stand on their four corners. Both majority and dissenting opinions have provided lawyers and lay people with rights recognized by the 5th and 14th amendments. Many of my dissents were not easy for me, frankly.

I don't like billboards either. I live 25 miles from town, and there isn't a billboard in between the ranch and the little town. Yet, as I looked at the first amendment in the *San Diego Billboard* case, I was compelled, despite the 6 to 1 majority, to hold that the statute created by the city was too broad. That went up on appeal and the U.S. Supreme Court also found fault with the majority.

So, it was not a question of whether we liked billboards or not. I am sure that to the layman it sounds great if we suddenly take our chain saws to a lot of them, particularly within the city limits. That is what this majority decision did. The U.S. Supreme Court upheld my dissent.

But there is a process, and there are private rights that go back many years. I had, again, to call them as I saw them.

If someone says I came down more often on one side than the other, then that is the way it will have to stand.

Senator METZENBAUM. Before the chairman calls me for using up my time——

Senator WALLOP. You have.

Senator METZENBAUM. I know. I know I have.

Senator WALLOP. I would just say this. We have been here nearly 3 hours. Senator Randolph and Senator Stafford are coming at 5 o'clock to ask questions for their committee, and so I will ask the committee to stand in recess until 5 o'clock, if the judge, reporter, and others——

Senator BRADLEY. Mr. Chairman, could I just ask three questions. They are very brief. It will be no more than 3 minutes, 5 minutes max.

Senator METZENBAUM. I am going to excuse myself, but I will say that you are patient, and I don't know what is going to happen to you as Interior Secretary, but you are not like Watt.

Judge CLARK. Thank you, Senator.

Senator BRADLEY. Thank you very much, Mr. Chairman. I will be very brief. These are questions that can be answered yes or no.

Judge, I have talked to you about some New Jersey issues that are very important, like the Pinelands, and a variety of other areas that we talked about, related to urban parks.

I wondered as Secretary of the Interior, will you be willing to come to New Jersey and see these areas firsthand?

Judge CLARK. Yes, Senator.

Senator BRADLEY. Thank you very much.

You will also be chairman of the Cabinet Council for Natural Resources and the Environment?

Judge CLARK. Yes.

Senator BRADLEY. That means you have responsibility for making recommendations on strategic petroleum reserve and the Super fund, is that correct?

Judge CLARK. Yes, Senator.

Senator BRADLEY. Quickly, what are your attitudes toward both of those, please? SPR and the Super fund?

Judge CLARK. Well, we have come a long way on SPR. We have 350,000 barrels of oil which are part of our mandate. We have a ways to go.

Senator BRADLEY. So, you think we could do better?

Judge CLARK. Yes, Senator, we can. We must.

Senator BRADLEY. What about the Superfund bill?

Judge CLARK. That I know less about at this juncture.

Senator BRADLEY. Toxic waste is a very serious problem. This is the only Fund that we have to clean up those toxic wastes.

As Chairman of that Council, I hope you are aware of that and recognize the pressing needs.

Judge CLARK. I shall be, Senator.

Senator BRADLEY. Thank you, Mr. Chairman.

Senator WALLOP. Thank you, Senator Bradley.

The Chair will stand in recess until 5 minutes past 5——

Senator BUMPERS. Wait a minute, Mr. Chairman, before you recess, what is the schedule?

After Senator Stafford and Senator Randolph ask their questions, what do you propose to do?

Senator WALLOP. I don't propose to do a thing. I am going to wait for the chairman's instructions as to what he wants to do.

Senator BUMPERS. Do you mind if I ask him just a few questions since they are not here? We might as well be utilizing the time.

Senator WALLOP. I do mind. I think even you would admit that 3 hours in that chair under these lights without a break is too much. He is entitled to some relief.

I am sure you will have an opportunity to ask your questions, Senator. I realize they are important.

Senator BUMPERS. But not much, Judge.

Senator WALLOP. We stand in recess until 5 after 5.

[Whereupon, the hearing was recessed.]

Senator WALLOP. The committee will come back to order.

Thanks to the understanding of Senator Bumpers and others for the break, which I think Judge Clark has fully deserved.

We have with us the chairman of the Environment and Public Works Committee, Senator Stafford, who has some questions to ask; and I think his ranking member and colleague, Senator Randolph, will be here momentarily to do some of the same.

Senator Stafford.

Senator STAFFORD. Thank you very much, Mr. Chairman.

I have had the opportunity to visit with Mr. Clark as the nominee before this meeting today, but I particularly appreciate this formal opportunity to ask a few questions since, while the majority of the jurisdictional areas of the Interior Department are under this committee, its fish and wildlife responsibilities are within the jurisdiction of the Committee on Environment and Public Works, which I have the privilege of chairing, and Mr. Randolph is its ranking member.

Mr. Clark, it is my understanding that, if confirmed as Secretary of the Interior, you will also serve as Chairman Pro Tempore of the Cabinet Council on National Resources. Am I correct in that?

Judge CLARK. Yes, Mr. Chairman, you are.

Senator STAFFORD. I am interested in the functions of the Council, obviously, and its chairman because of numerous reports that they have a greater influence over administration decisions on environmental pollution issues than does either the Council on Environmental Quality or the Environmental Protection Agency.

I won't ask you to comment on that. But who are the other members of the Council?

Judge CLARK. There are 10 members, Mr. Chairman.

The Secretary of State.

The Attorney General.

The Secretary of Commerce.

The Secretary of Transportation.

The Secretary of Housing and Urban Development, Pierce.

The Secretary of Energy.

The Administrator of EPA.

And we have Marty Feldstein from the Council of Economic Advisers.

And as to the relative duties between that Cabinet Council and other entities, I am unsure of that.

Senator STAFFORD. What, as you see it, is the role of a Cabinet Council on Natural Resources?

Judge CLARK. Senator, the role is, as the name implies, to coordinate the many overlapping issues dealing with natural resources and a lot of heavy environmental policies.

For instance, we discussed, the other day, acid rain. Interior has no statutory duty as such, but we certainly have a duty to participate. I would say the overlap with EPA is roughly 10 percent between the two entities.

The Cabinet Council is not a decisionmaking body. It, rather, reviews and makes recommendations, both majority and dissenting opinions, to the President for final resolution. Needless to say, with many issues in this area, I would expect it to be meeting often.

I do not now sit as a part of this group because, you understand, my duties up to now have been in another part of the house.

Senator STAFFORD. In other words, after considering all aspects of a problem, an issue of sufficient importance, I gather, the Council makes recommendations to the President for administration policy; am I correct?

Judge CLARK. Yes, Mr. Chairman.

There are two approaches. Sometimes the consensus or recommendation will go into full Cabinet for discussion and recommendation in the regular Cabinet meetings.

At other times, it will go forward on a decision paper, giving the varying views and consensus to the President.

Senator STAFFORD. Are recommendations achieved on a consensus basis, or is a unanimous recommendation sought?

Judge CLARK. Mr. Chairman, the President employs a decisionmaking process which goes back to my first days with him in Sacremento. He likes to hear all views on an issue, not just a consensus. If there is a minority position, he likes to hear about it concur-

rently with the majority recommendation, and is known to consider recommendations of the minority in making a final decision. He sometimes chooses the minority recommendation, but he does it in such a way that there are no winners and no losers. He sits there, tells us what his decision is, and why.

Senator STAFFORD. Thank you.

Might I ask you how you see your role as Council Chairman? Especially in relation to Mr. Ruckelshaus and the EPA, when the administration policies on environmental pollution issues are being established?

Judge CLARK. I view my role as chairman in a way that I chaired Interagency Groups while at the State Department. I chaired many of them. It is a coordinating process.

Probably the broadest example of that, Mr. Chairman, is the consideration of the draft of the proposed Law of the Sea Treaty which would have included all the members of this Cabinet Council and beyond.

We met regularly, and in answer to your question, I deemed myself a mere coordinator, attempting to determine the views of each department and agency and to and reduce those views to writing, and to send them on to the President either through the Cabinet Council or in a Cabinet meeting for decision.

Senator STAFFORD. Now, to get to the last question.

Would you be willing to tell this committee and me what part you might expect to play in the administration's formula of formulation of an acid rain policy?

Judge CLARK. I have been in Cabinet meetings on matters of acid rain, metals, and related matters.

As I mentioned this morning the acid rain issue is a very large one, a very expensive one, subject to scientific and political review that preceded this administration. It comprises such a large area, both as to the purported source of the problem—that is, oxides getting into the air from fossil fuel—and then joining precipitation beyond our own borders—that it has international aspects to it. It is a very high priority issue.

I realize what the debate has been up here. If confirmed, of course, I will be, if not standing in the acid rain, certainly approaching it from all sides, trying to hear all issues.

I spent 45 minutes with Senator Byrd this past week, discussing his concerns, and so I can assure you of the full process.

Senator STAFFORD. Well, thank you, sir.

Mr. Chairman, for my committee, I want to express our appreciation to you on this committee for the courtesy which you have always shown us and which you do on this occasion when some matter of joint interest comes up here on Capitol Hill.

And we will be very happy to reciprocate to this committee if the situation is reversed and we are examining somebody who you have an interest in.

Thank you very much.

Senator WALLOP. Thank you, Senator Stafford, and I am certain that the offer of the Secretary's response to the specific and relevant questions, which maybe some members of your committee may have, but they would wish to address.

Senator STAFFORD. All right.

Senator WALLOP. I thank you for coming over here.

Senator STAFFORD. I thank you.

Senator WALLOP. I have sent word to Senator Bumpers and Senator Metzenbaum and see if they want to return for further question, and this evening, and while we await that, I have got a couple, and if I run out before we hear we will stand in recess until we hear.

You have done yeoman service today. I compliment you on the way in which you have handled yourself.

There is one question which is very important to my State. We are a large public lands State as are others in the West. One of the areas of greatest public interest and concern is hunting and fishing, and it takes place very much on the public lands, for a significant percentage of it.

Now, I noticed when you were describing your farm—you even talked with great affection for the wildlife that was on—birds, quail, and other things, and yet you said you allowed no hunting and many people do do that, but do you have any inherent objection to hunting and fishing as legitimate sporting interests of Americans?

Judge CLARK. No, not at all, Senator. I hunted, I guess until my early twenties, as did my sons. Then I just stopped. I have no bias or leaning against hunting one way or other.

Our property primarily consists of rolling hills. For the most part, our trees are those I planted, and they offer wildlife shelter now. We have the rule against taking game on our own family farm, but it certainly wouldn't in any way affect recognition that hunting and fishing are part of America and always have been and I am certain will continue to be.

The Congress has a great say over limitations, boundaries, and conditions for taking wildlife. As I mentioned this morning, these understandable, appear to be a little different in Alaska than they are in the lower 48.

Senator WALLOP. For no other reason, because of its incredible size. It is incomprehensible to most Americans the size of Alaska, as the size of our deficit—they just sought of go beyond what experience provides as relevant.

And, you know, I have no quarrels with—no qualms about you or any quarrel with you not having hunting and fishing on your own property. I know many people who do and do not hunt and fish who do the same thing; and I think that is—you know—that is magnificent, and it is very useful, speaks of your care and concern of the resource that you possess and how your family chooses to enjoy it.

You know, I salute it. I think that is fine. I just think that is a matter of interest of a number of my constituents.

We would not want to see that fence furthered to millions of acres, and I didn't anticipate that you would.

Also, one of the areas of greatest cooperation, intergovernmental level between State and the Federal Government is will BLM, the Fish and Wildlife Service, and State fish and game commissions, or whatever they may be called from State to State.

And I hope that in your view of the role of the Department of the Interior as we seek to do other things—I spoke of the oil and

gas royalty counting things at that level of cooperation, which is really too magnificent. It can be used as a sort of guidepost to say how it can be if people will only commit doing it that way.

Judge CLARK. Yes, and I agree. I saw it from the other side, in the Reagan administration in Sacramento for 2 years. I recognize the necessity of this cooperation, this mandatory dealing with our congressional delegation from the State level, and more importantly, early communication, in an effort to avoid lawsuits and, short of that, bitterness that need not prevail. It should be avoided.

Senator WALLOP. Well, now, we have now talked about the variety of the uses of public lands under the—and public resources under the Department of the Interior. We have talked about buying. We have talked about oil and gas leasing on and offshore. We have talked about wilderness areas. We have talked about hunting and fishing. We have talked about recreation; we have talked about national parks, and other things.

One of my constituents, a livestock operator—and would you agree with me that they are a legitimate part of the concept of multiple use of public lands?

Judge CLARK. Oh, definitely. And, again, I go to childhood on that one. There are some 20,000 operators on BLM ground. The Department's policy has favored a little loosening of restrictions and more communications. This has resulted in more of a partnership, giving the operator a little more discretion and headroom.

I can understand that. I mentioned the sheep range during World War II when travel was difficult. I saw no one at times, for maybe a week or two. Frequently, the person I did see was a man in a green pickup from the station in McCloud, I believe it was, and I used to think he was probably the meanest man I knew as a kid.

In fact, I used to think then that when I grew up and met him again, I would ask him why he never smiled. I thought the other day that the opportunity might arise someday. My understanding of those days was of treatment or an attitude that was almost medieval in the Government's view toward the stockman moving his sheep or cattle into the forest. The area was not then a park; it was a national forest. While we do not have jurisdiction over the U.S. Forest Service, many of the early functions have been transferred to the Department of the Interior, and I hope the attitude of openness and reason in range management now prevails. I understand the rates, however, are set for the most part by the Congress.

Senator WALLOP. They are, and I was just going to bring it up to you because it is a situation that is running out. It was put down on an experimental basis? This is one area where you will probably be asked for recommendation on the Department's standpoint.

We are on now what is known as a sliding scale which sets rate relevant to market conditions. I don't know how many people in the audience today or in the country have any idea, what desperate straits the livestock industry finds itself in right now.

But we are getting prices that are significantly lower than they are in the early 1960's. Many very competent operators are squeezed beyond comprehension. One of the best I know in Wyoming, old family, that has no borrowed money and has operated for a long time on their full competence, and have built up—run a

herd of some 800 cows. This year they have sold 200 of those cows and all of their calf crop, and lacked $80,000 of meeting expenses.

Ask any other business in America whether they can stand to lose 25 percent of its capital, sell all that and the crop and be that short when it was all over and stay in business. And they could not. This is one of the areas where the balance between getting the last dollar from the public resource must be weighed in the livelihood of a lot of Americans of small towns who rely on the health of an agricultural industry, livestock industry around them, and the sliding scale simply is you will discover as you look at it simply rises when the market rises, and declines when the market declines.

It seems to me highly equitable and in the long-term interest of economic stability in American agriculture as it uses public lands.

I have—let me just find out if anybody has expressed an interest in returning.

[Pause.]

Senator WALLOP. Judge Clark, Senator Bumpers is on his way back down here, and I understand does not have a long period of questions. Senator McClure just announced on the floor that he would ask you to return tomorrow at 9.

Senator Melchor has not more than three quarters of an hour of questions. That would be how we would start tomorrow.

As soon as Senator Bumpers comes back, we will have those questions from him.

The committee should be aware that the chairman desires questions for the record for Judge Clark be submitted as soon as possible. If they can be provided today, I will expedite the answers, and all answers should be submitted by the end of the hearing tomorrow, if that is possible, and of course, I suppose that depends on the volume of what people—all questions should be submitted by the end of the hearing tomorrow, so you should have all of those in your possession, and somewhere around 9 o'clock tomorrow evening would be satisfactory if you have the answers.

Judge CLARK. All right.

Senator WALLOP. Those sitting behind you have mouths that are so wide open that you would not believe how wide open they are.

No, I clearly meant—it is an eastern habit I picked up from Senator Tsongas. [Laughter.]

We will stand in recess until Senator Bumpers comes in.

[Whereupon, the hearing was in a short recess.]

Senator WALLOP. Senator Bumpers has returned.

Senator BUMPERS. Judge, I know you are just having a laugh a minute today, and I can't stand to see you leave.

Senator WALLOP. Senator Bumpers, excuse me, but can I inquire if you have any idea how long it will be?

Senator BUMPERS. Less than an hour.

Senator WALLOP. That's an eastern habit you picked up from Senator Tsongas, too.

Senator BUMPERS. It shouldn't take long, Mr. Chairman.

Senator WALLOP. OK, because——

Senator BUMPERS. I have one question, Judge Clark, that has been submitted to me by Congressman Synar, he apparently has

some kind of understanding with you, but I want to get it in the record on his behalf.

Several subcommittees over there, as well as over here apparently have had a lot of difficulty getting access to information and employees at the Department of the Interior, and Congressman Synar tells me he has discussed this matter with you. He is chairman of the Government Operations Subcommittee on the Environment, Energy and Natural Resources. I understand that you have given him assurances that these problems will not continue if you are confirmed.

Is that a fair statement?

Judge CLARK. Yes, Senator. I should elaborate.

The Congressman called. It was last Friday, and we decided we would get together yesterday to discuss, as you suggest, a problem that he feels he has had in conferring with members of the Department in the past on an informal basis. He said he wanted nothing more than the arrangement that he has pursuant to law and according to the practice that he has had with the Department in the past, and that he has with other Departments. I told him after discussing the specifics that I understood the problem, No. 1, and will seek to resolve it, No. 2. We have confirmed that in writing.

Senator BUMPERS. He submitted a letter to you yesterday, October 31; do you have the letter?

Judge CLARK. Yes, Senator, I have it.

Senator BUMPERS. Mr. Chairman, with your permission, I ask unanimous consent that that letter be part of the record.

Senator WALLOP. Without objection.[1]

Senator BUMPERS. I have a letter here from the commissioner of public lands and farm loans from Wyoming. I think it wouldn't serve any purpose to put it in the record now, because I am going to offer my competitive leasing amendment at the earliest possible time. I think that would be a more appropriate time to discuss the letter.

Judge Clark, let me just ask you a couple of quick questions.

Do you believe in wilderness?

Judge CLARK. Yes, Senator.

Senator BUMPERS. Do you believe in historic preservation?

Judge CLARK. Yes.

Senator BUMPERS. Then, so far as those two areas are concerned, you and I are in agreement philosophically, and our differences would probably center on how much land ought to be set aside in wilderness, or how much ought to be spent on historic preservation.

But you do favor those concepts?

Judge CLARK. Absolutely, and that is confirmed by tradition and law and personal feeling, as well.

Senator BUMPERS. I appreciate that.

Would you oppose drilling in the wilderness areas?

Judge CLARK. Senator, as in my previous questions today, it comes down to, the law and compatibility. At first blush, they certainly don't sound all that compatible.

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[1] See p. 39 for text of Mr. Synar's letter.

As I understand it, there has been a practice, if not a policy, that there are no leases, have not been, and will not be for drilling, or mining in wilderness areas.

Senator BUMPERS. Do you agree with that?

Judge CLARK. Yes, Senator.

Senator BUMPERS. How about wilderness study areas? Do you feel the same way about protecting those until some disposition can be made of them?

Judge CLARK. I think that is the situation that has prevailed at Interior, and if I am correct in that, I cannot think of cause for change. But I also understand that in wilderness areas, there is existing drilling and mining based on prior rights, both in some of the study areas, and adjoining——

Senator BUMPERS. Yes, we are probably not quarreling about those.

Judge CLARK. All right.

Senator BUMPERS. Let me ask you this question:

I had the minority staff check with the Congressional Research Service to examine the normal data base to see what statements, if any, you have ever made regarding natural resources or the environment, since you left the bench. Are you on record at any time in your public career since you came to Washington on any environmental issues or any natural resource issues?

I recognize that your duties since you have been in Washington really were in an entirely unrelated field, and you were not necessarily likely to be making such statements; but I thought if you did, you might want to put them in the record.

Judge CLARK. No, Senator, if I may explain the nature of my role both at State and NSC has been to maintain a rather nonpublic posture. I have given very few speeches.

I don't know of any opportunity that I accepted at any time that would suggest any statements in that area.

I may be told that I did; but at this juncture I can ask staff tonight, and if there have been, I will submit them to you.

Senator BUMPERS. Please. I will appreciate that.

Let me ask you this question:

One of the things that has really been troubling me, and puzzling me, is that the President has never so far as I know criticized or even questioned any of Secretary Watt's policies. At least, he has not done so publicly.

Has he done so privately?

Judge CLARK. You asked me this—or someone did. I stand corrected.

Senator BUMPERS. Well, I asked you a related question, but not precisely the same one.

Judge CLARK. Senator, I am unaware of any instance. My area of responsibility has not included Mr. Watt's area of responsibility, except in the limited overlap that I mentioned this morning, and so I am unaware of any such expression.

Senator BUMPERS. I must say that the Ed Meese quote on the MacNeill/Lehrer program that I quoted to you in my opening round of questioning this morning is perhaps the most troubling thing about your whole nomination to me. I can see why the President thinks you are a prince of a man. You are obviously a laid-

back, very likable man, but, as I have said, it is not your personality that we are confirming here. We must confirm somebody who has certain values, certain beliefs, and who is committed to the environment as well as the preservation of public resources and balancing all of that with the legitimate multiple use of those resources.

But I must say, the fact that you have not been able to name any of James Watt's policies that you disagreed with, the Ed Meese quote on MacNeill/Lehrer, and the fact that the President has never one time raised his voice against James Watt is a very troubling thing to me.

Having said that, I think I just have one other question.

Judge CLARK. Well, could I comment on that, Senator?

Senator BUMPERS. Certainly.

Judge CLARK. There are three aspects. There is apparently a reference—is it in the newspaper, Mr. Meese's quote? If it is there, I presume it was said.

Senator BUMPERS. This is a quote that he made on the MacNeill/Lehrer show.

Would you like for me to read it to you?

Judge CLARK. No. You indicated what it is. I am not questioning the authenticity of it; I was just looking for the source.

Senator BUMPERS. It was the day after the President announced your nomination.

Judge CLARK. Yes.

Senator BUMPERS. I believe he named you on October 13, and the quote by Mr. Meese was made on October 14.

Judge CLARK. Well, Mr. Meese and I go back a long time.

Senator BUMPERS. I know.

Judge CLARK. To 1967. He was on my staff, and I recommended his appointment to assume my position as chief of staff when I left Sacramento. At that time, and in the intervening 16 years, my communication with the President, involving information, briefings, and recommendations, has always been direct. Now, the President's instructions, coming down the other way in that inverted funnel, have likewise been direct to me. I have had on more than one occasion since the 13th of this month to reconfirm my mandate from the President, which is review, in more than a pro forma way, process, policy and personnel at the Department.

That, I agree with you, would seem to conflict with what the press has reported on MacNeill/Lehrer. If you wish further clarification on that, I can obtain it.

Senator BUMPERS. Do you want to sleep on that, Judge, and elaborate further, in writing? I would be happy to get your comments.

Judge CLARK. As to the relationship between the President and Secretary Watt, I simply was not in that chain of communication or command. What they may have discussed concerning Mr. Watt's performance, I simply cannot say. And, as lawyers, I don't think that we can infer that they didn't have the kind of communication that you would customarily have between a Chief Executive and a member of the administration.

Senator BUMPERS. Have you met Gary Carruthers yet?

Judge CLARK. Yes, he came over.

Senator BUMPERS. Assistant Secretary for Land and Water?

Judge CLARK. Yes, Senator. He came over. It may have been yesterday when I had some specific questions on wilderness.

Senator BUMPERS. He said on October 11: "Secretary Watt was a great interpreter of Ronald Reagan. We will just continue to carry on. We have the management system in place; the team is in place and continuing to operate."

And, then, at the time, Secretary Watt said: "I leave behind people and programs, the legacy that will lead America in the decades ahead. Our people and their dedication will keep America moving in the right direction."

You know, I just want to make a comment. I am not going to ask you to comment on this. You have already talked about personnel this morning, but one of the reasons that William Ruckelshaus has developed an immediate credibility, at least with people like me, is that he immediately cleaned out some personnel in EPA.

He not only raised the morale there, he raised my morale. You may or may not choose to do that, but I don't see how in the world you can change James Watt's policies if you decide you should unless personnel changes are made.

Now, Judge Clark, there is one other thing that I want to cover with you, and this is a partisan thing. It doesn't get any attention around here. This committee——

The CHAIRMAN. It got some from me.

Senator BUMPERS. It did get the Chairman's attention, and he marshaled about 15 votes against it. You may or may not recall a memo from the Department of the Interior to the Republican National Committee. This dealt with appointments to the Department of the Interior's Advisory Committee on Outer Continental Shelf Leasing.

I think the Department of the Interior probably has as many as 80 advisory committees, many of which have "scientific" in their name. I think there were about 15 members on this Scientific Advisory Committee charged with advising the Secretary on a host of things regarding leasing on Outer Continental Shelf lands.

The list of the people nominated to the committee was sent over to the Republican National Committee, apparently for philosophical clearance. And the memo, which came to my attention, had yes, no, yes, no, written out by the names of these people. Everybody that had "yes" by their name was reappointed, and those who had "no" were not.

All those who had Yes by their name were apparently good, honest true-blue Republicans.

Now, I am a partisan Democrat. Someday we hope to take control again, as you probably know. I understand the way this game is played, and I have no objection to it. I think it has served this country well for many years.

But I do object strenuously to partisanship when you are picking science advisers or people who are supposed to be dealing with pure science. We didn't give Dr. Salk money to solve the polio problem because he was a Democrat, or because he was a Republican. We gave it to him because he was a scientist.

One thing that set the Soviet Union back for so many years—and they are still suffering from it—was Stalin's insistence on ideologi-

cal purity from his scientists, many of the very best ones were executed.

And in Germany Hitler might have fared much better in the war if he hadn't been so bent on destroying all Jews regardless of their scientific ability. That is why Albert Einstein came to this country.

So, I say those things because I raised this issue with a young fellow who was up here for confirmation the other day. I liked him; he had served as one of the staffers on this committee for a long time. But I voted against him in committee, and I intend to vote against him on the floor, because he would not say that that practice would be discontinued as far as he was concerned.

A lot of people pooh-pooh my feelings about this, but the National Academy of Science does not, and just last week the New York Times had a lengthy article about the science community that was reported in Science magazine. The scientific community is increasingly concerned and alarmed about this practice, and I would welcome your comments on it.

I don't think we are going down some kind of trail right now that is going to mean the destruction of this country, but I just think it is an embryonic start, and I like to just nip those things in the bud before they get out of control. I think it is a bad practice.

You can find the biggest contributors, you can find the shrillest Republican partisans you want to to name to all the other positions in Interior I may not vote for them, if they require confirmation; I won't raise my voice if they don't.

But when it comes to science advisors, that is another matter.

Judge CLARK. Well, Senator, I think I fully understand what you are saying. I have no personal knowledge of this practice. I would, of course, like to hear, if confirmed, the other side of the story, if there is one. There may be none.

It is something that I will look into. I think that the President's approach to appointments has been very fair. We mentioned Bill Gianelli. One of the first appointments by then Governor Reagan to help pull us out of a terrible situation that we were in on the State water project, was Bill Gianelli, who at that time—and I don't know he may still be—was active in the Democratic Party in California.

Certainly, in a partisan position, as you mentioned a few moments ago, you are expected to look at the party files and see both performance, in terms of party activities, but also performance in the area of competence. Those are considerations that have been recognized, since the Government came into being.

I can assure you that it is something I would want to know more about, and can speak no further on it until I do know more about it. I can tell you what my practice is and has been in my own hiring. I disappointed a lot of young lawyers and lawyers-to-be during my 8 or 9 years on the California Supreme Court and two years on the court of appeal. Some 130 or 140 law clerks worked for me and on no occasion did I ever ask their political party philosophy or ideology. I disappointed some of them because they came in primed to tell me about it, thinking that would be the qualification. I must say that not all judges view their employees in the same way.

I pointed out when asked why I didn't, that they were technicians to give advice, like the scientists you mention, and that I was not concerned with their politics or ideology.

I don't think then-Governor, now President Reagan has ever made party politics or active political work a major criterion in hiring. In fact, he has been criticized at times for nonpartisanship in his appointments. Certainly this should be the case in the area of scientific concern.

You have my assurance. I will look into this, and be able to speak to you more fully.

Senator BUMPERS. I appreciate that.

You were asked at your first confirmation hearing if you got outside help in writing the *Cooper* v. *Swoap* decision. You stated you did not?

Judge CLARK. Yes.

Senator BUMPERS. Is that still your answer?

Judge CLARK. Yes, Senator. It came up there, it comes up here; and because it did, a couple of associate justices stand by to elaborate on that era.

The opinion you refer to is one in which I relied heavily in my dissent on a law review article by a man named Zumbrun, whom I knew, from Sacramento days. I did not know him well.

I encouraged him to come on in that case as an amicus curiae, as an AC, if I recall correctly. This was discussed with my colleagues, first of all, with Justice Burke, and then later in chambers. As far as receiving any assistance from Mr. Zumbrun that can anyway be called what you termed an "impropriety" at one point, I think the issue has been fairly well laid to rest.

It was a 1973 case and, as I say, there were others who were involved in preparation of that opinion, both clerks and judges who, I believe, will give you the same answer.

Senator BUMPERS. Then you categorically deny all of the allegations made in the article in the Village Voice article?

Judge CLARK. Senator, again, as we discussed, this is an article that has received circulation this summer. I certainly stand ready to respond, if you find it necessary, either through clerks who were involved in that opinion, or I can respond directly. In response to that article, the same two associate justices—now the only two remaining on the court who were present at the time in question, 10 years ago—have voluntarily stated that they would come back here at their own expense to answer any of those questions.

Senator BUMPERS. I thought much of the article was really not corroborated or substantiated; and, as a trial lawyer, I am a great believer in the defendant being innocent, but the one thing that really caused me pause was the allegation that you had leaked information which resulted in attempts to have Chief Justice Rose Bird recalled. That would be a very, very serious allegation, in my opinion.

Judge CLARK. It certainly would, Senator, and that issue has been resolved. It involved, as you know, a period of time at which the chief justice was being considered by the voters of California for affirmation to sit on the supreme court. Do you want me for the record to go into detail? I want to assure you and this committee, and those who haven't been assured. The Village Voice article is

the first article that has raised the question of integrity in my career. I asked one member of the committee, Senator Domenici, to particularly look into the allegations in the article.

Allegations that one or more judges on the California Supreme Court made claims that chief justice was withholding a very controversial criminal case to avoid public criticism in advance of her election was fully aired before a California constitutional commission. It found that simply there was no showing that any justice had committed improprieties in connection with allegations that a criminal case, *People* v. *Tanner* had been withheld from timely filing, or that disclosures of such withholding had been made.

Senator BUMPERS. Mr. Chairman, I think that concludes my questions.

Judge Clark, I want to thank you for being here, and for your patience. You have certainly been very cooperative, and it has been a long day for you and I appreciate your candor and the position that you are in right now.

Senator WALLOP. Judge Clark——

Senator BUMPERS. I appreciate your wife's patience too.

Senator WALLOP. You have now been before this committee for 7 hours today. I just made inquiry a few minutes ago on the floor of Senator Melcher as to whether he wished to come and ask questions this evening. He indicated that it would fit his schedule better if he returned at 9 in the morning, and he said that he thought he could complete his questions in approximately 45 minutes.

So, I think 7 hours today is enough, particularly under those circumstances; and I know of no other requests of other members who wish to ask questions, although that might occur. I would anticipate that we could get you on and off the stand relatively quickly in the morning.

I want to express my gratitude to you as well.

We will stand in recess until the hour of 9 o'clock in the morning.

[Whereupon, at 6 p.m., the hearing was recessed, to reconvene at 9 a.m., November 2, 1983.]

WILLIAM P. CLARK NOMINATION

WEDNESDAY, NOVEMBER 2, 1983

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to recess, at 9:02 a.m., in room SD-366, Dirksen Office Building, Hon. James A. McClure, chairman, presiding.

Present: Senators McClure, Murkowski, Nickles, Hecht, Chafee, Evans, Bumpers, Ford, Melcher, Tsongas, and Bradley.

Also present: Charles A. Trabandt, chief counsel; Gary Ellsworth, deputy chief counsel—natural resources; Tony Bevinetto, professional staff member; D. Michael Harvey, chief counsel for the minority; Thomas B. Williams, professional staff member for the minority; Benjamin S. Cooper, professional staff member for the minority; James T. Bruce, counsel for the minority; Elizabeth Moler, counsel for the minority; Craig Gannett, counsel for the minority; and Linda Mason, professional staff member for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. The committee will come to order. To the best of my knowledge, there are no members of the committee who desire to ask questions of Judge Clark in the hearing this morning with the exception of Senator Melcher. There may possibly be others to arrive who have questions, but I have no knowledge of that at this time.

After 7 hours of questioning yesterday, I think it is obvious that Judge Clark, you know your subject. You do have experience and background and I think based upon that record that was made yesterday, I perceive no real problem in your confirmation and look forward to that occurring as rapidly as possible.

A part of that, of course, will lie in the written responses to questions that were in writing, and you will receive those so that they can be disseminated to the committee members who submitted the questions so they can have the background and the information that they desire before we get to the vote in the committee.

Senator Melcher.

Senator MELCHER. Thank you, Mr. Chairman, and thank you, Judge Clark, for your patience and your forebearance. I appreciate this opportunity to ask you further questions.

Yesterday when my 10 minutes were up we had been discussing geothermal development in Island Park just west of Yellowstone National Park. Judge, those questions were in fact an easy pitch to

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allow you to say affirmatively what your judgment is on those very significant national resources.

I think when we talk about Yellowstone National Park, Old Faithful, and the Yellowstone Geyser Basin we are talking about something a little bit more significant than national pride and apple pie. I think it is pretty easy to say that unless I was absolutely convinced that geothermal drilling in Island Park would not be harmful to any extent, to the Yellowstone Geyser Basin, I would not allow that to happen.

You didn't say that. Can you say it this morning?

Judge CLARK. Senator, I believe some questioning went on after you were called out to debate the natural gas bill. I think I alluded, in later testimony to Old Faithful being our western Statue of Liberty and, in that recognition, obviously we have a duty to protect what I referred to yesterday as that plumbing. I believe that is what Senate bill 883 attempts to do.

We had hearings in May suggesting not only an additional 2-year study of that problem, but a ban on any exploration or production of geothermal energy within a 15-mile strip around the park.

Again you alluded in your testimony to the Lassen National Park which is contained in the same bill in which we discussed a 1-mile ban on the southern border. This, as I know you know, goes back 5 and 6 years in discussion. I am not certain what the status is at the moment, the status of 883 up here, but it would seem to protect against the risks that I know concern you, Senator.

Senator MELCHER. I will just have to comment on that. The 15-mile ban in that bill on the drilling is not satisfactory at all. The bill, which calls for more study, is not extremely reassuring since there could be some leasing after that time. Or, if that study were decreed satisfactory by the Secretary of the Interior. This places the decision squarely before you. The bill is not moving I can inform you. It probably will have a difficult time moving out of this committee without an outright prohibition against Island Park leasing, and I am not being harsh on anyone.

The fact is if there isn't going to be geothermal at this time at all, then maybe there wouldn't be much development if we did have some leasing there.

I want to go on to some other points, Judge. First of all, there isn't any question but what I would try to help you as a member of this committee in every way, that is, if I could be satisfied that I knew where you are coming from so I know how to deal with you. I am rather regretful at the circumstances surrounding Secretary Watt's resignation. I feel that the type of off-the-cuff remarks he made were very damaging to him and probably resulted in his decision to resign. I think it is regretful that a person's attitude or remarks lead to that. It is embarrassing and rather sad for Secretary Watt and his family. It is not very comfortable for the President and the rest of his Cabinet. So it is my purpose to deal with the Department of the Interior on the basis of its policy, not any remarks that you might make. I will deal with your policy regarding the Federal lands that are under your jurisdiction. That fits in with what we have to live with in Montana because much of the State is Federal lands.

I am going to ask you a number of questions concerning some remarks that you have made because I think perhaps they are more revealing of how you feel than anything else could be. We can't expect you to understand all the intricacies of the Federal lands and the duties of the Secretary of the Interior. We don't anticipate that.

Senator Tsongas yesterday said that he didn't think that experience was the key. Well, I follow what Senator Tsongas meant by that comment. He was interested in what your attitude and what your policy would be as Secretary of the Interior.

You mentioned yesterday that on your ranch or farm, you can call it either one, of 880 odd acres, you didn't allow any hunting. In my country and perhaps in that part of California they are not allowing any hunting on 880 acres.

Were you talking about deer or rabbits or pheasants or birds or ducks or what?

Judge CLARK. Senator, again while you were at the other hearing that was brought out. I will try to repeat. First of all, I have no bias against hunting. I was an avid hunter until reaching my early twenties when I just gave it up so to speak.

The acreage you refer to does not have a lot of cover. Most of the trees that we have I have planted, eucalyptus, pine, fruit trees. We have just decided within the family, without any posting of signs, that we do not take game off the property. It isn't that abundant. We have quail, dove, and some wild pigs come into the northern boundaries from a more wooded area. We do have some deer, though that population has decreased as the coyote population has increased. We have just made that decision within the family that we not hunt nor do we invite others to come on to hunt.

Senator MELCHER. I mentioned at the outset that I was curious about some remarks President Reagan made about your background in agriculture. Your testimony before the Foreign Relations Committee, for your nomination to be Deputy Secretary of State in February 1981, in response to Senator Kassebaum's question about the grain embargo, was that you didn't think the Carter grain embargo was proper.

Now what is your understanding of the grain embargo? Was it the total grain embargo?

Judge CLARK. I am not certain of the quote in the hearing, Senator. I have not viewed that testimony for some time, so if I could see my answer that you are referring to, it might be helpful.

Senator MELCHER. Well, Senator Kassebaum said in part "What do you mean by total embargo?" And you responded, "Perhaps I misspoke myself in using the word total, but not such a selective embargo as to include just feed grains."

Judge CLARK. Well, I believe I was restating what President Reagan had said, that the grain embargo is a selective embargo as exercised against the Soviet Union, and if it became necessary to embargo one commodity, fairness would seem to call for a blanket embargo of more than one just product. I believe that was the context of that question and answer in 1981.

Senator MELCHER. The reason I am asking these questions is because you, according to the testimony, brought up the subject yourself prior to the hearing with Senator Kassebaum. She merely fol-

lowed it up on the record at the hearing in questioning you about your attitudes on the grain embargo.

My only question is since you called it a selective grain embargo or selective embargo the point of my question was that you mentioned feed grains to include, and I am quoting, just feed grains.

First of all, was it not your understanding that the embargo involved both wheat and feed grains?

Judge CLARK. Yes, Senator. I don't know why feed grains were mentioned if they were in the 1981 testimony.

Senator MELCHER. Well then, was it your understanding that it was a total embargo of wheat and feed grain?

Judge CLARK. Yes. The President felt that singling out one commodity represented a certain unfairness to the producers of that commodity and if embargo became necessary, it should be one across the board. I think was the context of the question.

Senator MELCHER. Well then, it was your understanding that it was a complete embargo of wheat and feed grains?

Judge CLARK. Well, the embargo that was imposed by President Carter included all commodities, both wheat and feed grains.

Senator MELCHER. Well, that isn't the case, Judge. I ask you this because while the public might have thought that, people in agriculture were well aware that the basic agreement was still in place. The agreement was that the embargo had nothing to do with the 6½ million metric tons of wheat, of feed grains, that underlie the further sale. In other words, the agreement with Russia was that they would be able to purchase 6½ million metric tons of wheat and feed grains. That would be assured. Whatever else Russia wished to purchase, they could purchase if they desired.

The embargo imposed by President Carter on January 14, 1980, only applied to any purchases over and above the basic agreement of 6½ million metric tons of wheat and grain. Those were sold in 1980. They were sold again during the first quarter of 1981. That was during the time that you were responding to Senator Kassebaum and prior to the time that President Reagan lifted the embargo.

Also in that testimony, in fact on the same page, and in the same response you stated to Senator Kassebaum and the rest of the Foreign Relations Committee in 1981, "I am reminded somewhat of the Nixon administration's price control on beef. It almost dried up an industry, a cyclical one, that took the beef industry months if not years to recover from that act. I see similarities between the grain embargo now and the Nixon administration action toward beef."

Judge, you do have beef cattle on this ranch of yours, do you not?

Judge CLARK. My sons raise beef, yes, Senator.

Senator MELCHER. And is it about 60 head?

Judge CLARK. Their year-round breeding herd is about 60; they increase that to, in one way or another, between 100 and 200 head if their stubble is strong.

Senator MELCHER. Did you or your sons own cattle during the period you referred to as the Nixon beef embargo?

Judge CLARK. I don't recall, Senator. I would have to check their records.

Senator MELCHER. When was the quote, Nixon administration action toward beef?

Judge CLARK. I am unsure of that date. I do not wish to guess.

Senator MELCHER. You stated it almost dried up an industry. The reason I am asking you these questions is because these are statements you volunteered. You weren't asked anything about the Nixon administration's price control on beef. You stated that it almost dried up an industry, a cyclical one.

Do you recall what prompted you to say that?

Judge CLARK. No, because I don't have that testimony before me, Senator, nor have I looked at it since giving it in early 1981.

Senator MELCHER. Let's then turn to a different aspect of agriculture. You have the cattle on your ranch. Do they graze the entire 880 odd acres?

Judge CLARK. Over the course of a year they will have grazed their entire acreage.

Senator MELCHER. Is most of the acreage leased out to the White Land Co. or Farming Co. or something of that nature?

Judge CLARK. My three sons have a cooperative arrangement with the neighbors in raising barley each year.

Senator MELCHER. And is that the major portion of the 880 acres?

Judge CLARK. Yes, Senator. One-half the ranch is planted each year. The other half is in the so-called summer fallow program. It is a feed grain.

Senator MELCHER. You planted barley and that is produced by another operator under cooperative agreement?

Judge CLARK. Yes; the agreement is with my three sons.

Senator MELCHER. What is done about soil conservation on the ranch?

Judge CLARK. When I acquired the ranch, I had the Soil Conservation Service give me a test of the soils throughout the ranch and recommendations on dams, check dams, toward reducing erosion which seemed to be occuring in one part of the ranch when we acquired it. The Soil Conservation Service conducted the survey, made recommendations, and over the last 15 years we have created two small Earth-filled dams. We have, as I mentioned yesterday, put the main dirt road in the bottom of the canyon rather than on the top of ridge to again attempt to avoid erosion and we have planned some wild grasses in the canyons.

Senator MELCHER. Are there erosion problems on the ranch?

Judge CLARK. "Problem" is a relative term. The nature of the country, the rolling hills, and very little ground cover other than native grasses and the barley that is planted create the potential for erosion, but I wouldn't consider it a major problem on any part of it, Senator.

Senator MELCHER. There was a special problem of erosion in 1980 or 1981 where the Federal Government participated in correcting that problem?

Judge CLARK. We may have had some engineering done in 1981 or 1980. I am not sure which, Senator.

Senator MELCHER. Did the Federal Government participate in the program to correct the erosion problem?

Judge CLARK. We asked them to do engineering for a spillway from an existing Earth-filled dam. There were no Federal funds involved as I recall.

Senator MELCHER. Did the people who had the cooperative agreement—I think you described them as your neighbors in farming or producing the barley, planting and harvesting the crop—did they apply for and receive disaster-type assistance for erosion in any of those years? I will go back from 1978, to the current time.

Judge CLARK. They could possibly have applied for some relief in erosion control. I would have to check with my son, Senator.

Senator MELCHER. The information I have is that the USCS paid $8 to $9 thousand, in 1978, and it was handled through the White Land Co.

I just wanted to ask that series of questions involving agriculture to get better grasp of what your feeling toward it was. To know what you meant by things you brought up—the grain embargo, the Carter grain embargo, and the Nixon administration. You described it as the action toward beef, and also as a price control on beef so that I could to get a better understanding of your agricultural background and what it meant to you.

I now understand there are other questions to be asked and I certainly don't want to monopolize all the time here. I will get back together on other questions later.

The CHAIRMAN. We will be back.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. Judge Clark, I missed some of the questions yesterday morning, but I would like to deal with the parks, and perhaps you have already answered those. It would be helpful to me in this question period if we deal with those.

As you know, Mr. Watt concentrated on what we call development of the parks, if you would, upgrading them, in terms of what he called being steward of the existing parklands; namely, roads, sewage plants, and so forth, facilities for people coming to our parks.

That is all well and good, but it seems to me that we are missing a very, very valuable opportunity for acquisition. These lands don't come up very often. One has to move and move rapidly, and could you give me your thoughts on acquisition of the parklands?

Judge CLARK. Yes, Senator. I mentioned yesterday that 3 years ago it was the judgment of the Secretary in reviewing priorities that great attention had to be paid to the deterioration of some of our parks and the needed maintenance. I believe that was concurred in by the Congress. Thus, top priority was to review existing acreage and the result was a 5-year program which was instituted for park-enhanced maintenance and improvement of existing facilities involving, I believe, over that period of time almost a billion dollars. There was not a lot of acquisition on the one hand.

On the other, I am told that there were some 8,000 pending acquisitions primarily through condemnation, using eminent domain power and a backlog so to speak, and the Department did go to work and reduce that to under 2,000 cases, solving a lot of inholder problems. I understand that there was no great acreage acquired in the interim.

However, that is and must be subject to a constant review. In the upcoming budget which will be submitted in what, 3 months, 2 months, there may very well be review leading to determination based on need of additional acquisition. That is an open question at this time.

Senator CHAFEE. Well, what I would urge you to do is—everybody urges your attention to about 75, 50 matters here so far, and you have faithfully said you would give it your attention. However, I just want to note on the part of one Senator, and I am sure in the groups you will be talking to the same concern is expressed, that with the burgeoning population, with these lands becoming ever more valuable both dollar-wise and through availability, I think it behooves us as a nation to acquire these lands for the future. That is part of the stewardship as well as making sure that the restaurants and the sewage systems function, so I would hope that you would do what you could in acquisition as well.

Judge CLARK. I assure you, Senator, that part of the review is the question of further acquisition of not only parkland but refuge land as well, possibly to increase 417 refuges. Again this review will examine not only fee acquisition but, as we have discussed, acquisition of easements and long-term leases, gifts, tax incentive use, that would give us the same benefits perhaps without always acquiring fee title which is a much greater acquisition cost.

Senator CHAFEE. Well, I am delighted to hear that. Now in 1980 the Interior Department prepared a document called the "State of the Parks" which identified some 4,000 specific threats to park resources, and the report actually found that none of our parks were immune from this degradation and these were all kind of—when you talk degradation, it was water pollution, smoke pollution, and the House has twice passed legislation aimed at reducing these threats to the parks. Some of them come from the land actually inside our parks, privately owned, and basically what the bill says is where the Interior Department has jurisdiction over Federal funding or permits, grazing, water, leases, reclamation and so forth on land within or adjacent to a park unit, the Secretary must deny such activities if he finds they threaten or degrade park resources.

Now when Interior does not have jurisdiction, the appropriate Federal agency must consider the impact on the park, and now the proponents' view of this legislation is that it will establish a review and coordination procedure to insure that the impacts to the parks are fully considered from a variety of Federal agencies.

Now there are those who oppose this. Mr. Watt opposed this saying he already had enough authority. I just have concern over the parks. You read the geothermal industry is tapping in. I am sure this is maybe hyperbole, but you get the impression that Old Faithful isn't going to rise anymore because it is being tapped by the geothermal industry.

Well, I would like to believe that isn't so, but the fact that serious people are evidencing that concern I think arouses concern in me, and I am sure in you; so I would hope that you would look carefully at this legislation which as I say has twice passed the House and consider the impact of these other agencies on activities within our parks.

You have mentioned that one possibility might be to adopt a barrier island type of legislation. We don't go ahead and federally fund activities which are damaging to the parks, and would you comment on the possibility of proceeding with that?

Judge CLARK. Well, I am aware of the legislation, Senator, and I assure you that that will be reviewed. It will probably be reviewed, if it hasn't been already, in the Cabinet Council because of the overlap among several players in that Cabinet Council. That is part of the overall review and, as you suggest, the Secretary of the Interior's concern must go beyond immediate jurisdiction of the park itself to look at water and air conditions. Some of those sources may be outside the jurisdiction of the Department but still affect the land and wildlife that the Secretary and the Department are charged with maintaining.

Senator CHAFEE. And then getting to the use of the barrier island type of legislation, namely, forbidding the Federal funding to degrade lands that are within our parks or that we are about to proceed with, as you know, the Secretary has legislation to that effect.

Judge CLARK. Yes. I am aware, and I am aware that you are being in the forefront of the same legislation.

Senator CHAFEE. Well, I would again hope you would give that some favorable consideration.

Let me move to one other item which bothers me a great deal, and that is this Congress enacted a reauthorization of the Endangered Species Act last year which deals with the listing of the new species, not only flora but fauna and stretching out further than we had before.

Now this requires additional listings by your Department, but for some reason, how OMB gets involved in the listing of endangered species I don't know, but there is resistance to the approval by OMB to this expanded list and thereby torpedoing the program which at this time both branches passed. Certainly in the Senate it was unanimous, and I would be interested in your thoughts on that if you agree with it.

Judge CLARK. Well, I will review the torpedos as well, Senator. I think there has been progress in the Department itself, not only on listing endangered or threatened species, but also with recovery plans for carry through as to what to do about the species once listed. It is a major program.

I was unaware of any undercutting by OMB, but with that notice from you I am now duty bound to review that, too, if confirmed.

Senator CHAFEE. Well, as you know, those in OMB are vigorous and vigilant on what they consider their duties. It requires vigorous vigilance on your part or any administrative head's part to pry things loose from them. Their answer is no. I am not telling you anything new. You are familiar with this, so I would hope that this—in other areas, too, but I am involved in this listing process for the endangered species. I hope you would bear down on them and hope all the lists which Congress has ordered will be done.

Now we didn't set forth a list, because we leave it to your discretion; so I would appreciate anything you could do on that.

Judge CLARK. I assure you that will be done, Senator.

Senator CHAFEE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Tsongas.

Senator TSONGAS. Thank you, Mr. Chairman. If I may, let me deal with the wild and scenic river issue which I did not have a chance to get to yesterday.

Here is a policy that Interior has adopted that any river that has flow through private lands cannot be considered to be eligible for wild and scenic river designation. That has become very controversial.

Have you had a chance to look at that and what is your position about whether a river that has a shoreline that may have some private holdings should or should not be eligible for the designation?

Judge CLARK. Senator, I have no pesent position. I am aware of the controversy at least with respect to this issue. I believe you correctly characterized the position of the Department. I assure you, as I have Senator Chafee, that I imagine, if confirmed, it will be a matter of immediacy.

Senator TSONGAS. Could you give us a written position on that matter as soon as you can?

Judge CLARK. I shall submit that.

Senator TSONGAS. It appears also in northern California, there is a lawsuit in which the lower court ruled against designation and after some hesitancies, the Justice Department has filed an appeal.

What would be the position of the Department in supporting Justice in that appeal?

Judge CLARK. Again, that will be part of the same submission if I may, Senator.

Senator TSONGAS. Well, let me just say that Senator McClure has filed a bill, S. 1084, which has been developed with the help of the administration, and it includes eight designations, and I would just like to commend Senator McClure for having done that. I don't do this very often. I thought I would take a chance.

Senator FORD. And it's not listed.

Senator TSONGAS. It's just as well.

The CHAIRMAN. Any time the Senator is saying something nice about me, my ear perks up. I appreciate that.

Senator FORD. Your antenna went up pretty good, didn't it?

The CHAIRMAN. Yes, and I appreciate it.

Senator TSONGAS. Let me say that you have really done a very good job in these hearings. It reminds me of the hearings that we had on Secretary Schultz in the Foreign Relation Committee. It was a masterful performance, and I think he has gone on and done a very good job. Nothing he said in those hearings was hardly worth quoting, and for that reason he got by without any difficulty.

I think you come a pretty close second in having fended us off rather well.

Let me ask you a question which does not require a written report. Twenty years from now when a schoolteacher is taking a class through the Interior Department building, walking along the corridors of the various pictures of the Secretaries and describing to them who these people were, obviously they are going to spend a lot of time in front of the picture of James Watt explaining what that was all about.

What would you have her say about your picture?

Senator FORD. The artist did a good job.

Judge CLARK. Well, Senator, my hopes would be high. I forgot to mention my new grandson yesterday. I would hope that he might be a part of that group and that he and others who might be within the group would not be disappointed in whatever the tour guide or teacher might describe.

Senator TSONGAS. What would you have her say or him say?

Judge CLARK. I would hope that, he or she would feel that I had done my duty and kept the trust of the American people in maintaining the stewardship placed in my hands, if confirmed. When I refer to the people, I mean all the people who, of course, are our No. 1 natural resource.

Senator TSONGAS. Let me just ask you one other question which may even not be appropriate. When I met with James Watt in my office—we met twice for a considerable period of time. One of the issues we talked about was religion, and one's view of God and what that entails, particularly in this particular post, and it seems to me that as it turns out there are at least two ways of looking at this from the perspective of religious convictions.

One is the view that we are waiting for the Second Coming and that the role of human beings on Earth is to use the resources on the Earth until such time as that happens.

The second view was that all these resources are God's creation and if one truly believes in God, he then has a corresponding obligation to preserve and to conserve what God has created.

Which of those two would you say is more closely alined with your particular conviction?

Judge CLARK. Well, of course, I am unaware of the conversation and I have never had a similar discussion with Secretary Watt.

I have never thought of this question in the sense of theological terms, Senator. If you wish to discuss that as you did with Secretary Watt, I would be most willing to do so.

Senator TSONGAS. I don't think we need a report. I would be glad to just converse with you about it at some point.

Judge CLARK. I shall look forward to that, Senator.

Senator TSONGAS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Melcher, did you want—excuse me, Senator Ford.

Senator FORD. My distinguished colleague from Massachusetts said that Judge Clark didn't say anything that was quotable. I went home last night and reflected on the day, and you made one statement that gave me some hope. You said it is hard to put a horse down, and that is quotable. That's quotable. I thought that was very good, and it indicated that you might help us prevent the sale and auction of wild horses and little mules I think you called them, so I thought that is quotable. I want to say it again—it's hard to put a horse down.

Senator TSONGAS. Not to mention the Senator from Kentucky.

Senator FORD. I'm thinking. You see me hesitate? I was counting one, two, three. If we lose our good humor, we might as well go home.

The CHAIRMAN. It seems to me Jim Watt said that once.

Senator TSONGAS. And he went home.

Senator FORD. Well, Mr. Chairman, I am on the verge of putting both feet in my mouth. If I don't want to get the same award that

Secretary Watt received—but he has a good job and his friends are taking care of him and he is going to be a distinguished lecturer for the next 4 months and then he is going to be a fundraiser for the present administration, so maybe we helped him and maybe we didn't. I don't know. We will wait and see.

Senator BUMPERS. He was the best fundraiser we had, too.

Senator FORD. That fellow had dual capacities, didn't he? Whichever way you wanted him to go.

Judge, we are getting off the subject here, and it may be good to divert attention from the problems of the day. How do you feel about so-called whistle blowers?

Judge CLARK. Senator, I want to be sure I understand the term.

Senator FORD. The term is someone within the Administration or your Department who brings to the attention of those in your Department waste, fraud, abuse, and makes suggestions where you could eliminate those and has to do it publicly and gives you a suggestion where he could save a considerable amount of money. That is what I term a whistle blower.

Judge CLARK. All right. Thank you. Anyone who is aware of waste and fraud or abuse in Government has a duty to come forward and attempt to do something about it. If something is not done through the appropriate channel, then there is a second duty to disclose that fact, so I have no problem with the concept.

Senator FORD. What if there is a feeling that the individual who has laid himself open or herself open, to this sort of thing is not receiving the kind of support in the Department? How would you feel about that?

Judge CLARK. Support from superiors? In other words, there is no response, Senator?

Senator FORD. Yes. It is there and the report has been made and they are obviously bearing their soul, and then went public with it when they weren't getting the right kind of response.

Judge CLARK. Well, certainly if it is a duty they are performing in disclosing information that must be revealed, there should certainly not be any penalty imposed either directly or indirectly for doing one's duty.

I say that not knowing the case, of course.

Senator FORD. I am not referring to any case.

Judge CLARK. Very well.

Senator FORD. Were you referring to a case?

Judge CLARK. No, sir. I am speaking hypothetically.

Senator FORD. I am asking I guess a hypothetical question also.

How helpful should the Inspector General's office be in helping the individual who reveals the problem and how helpful should they be and how productive should the Inspector General's office be?

Judge CLARK. Well, I think that the same duty would attend the Inspector General. If there is an allegation of mismanagement, fraud, whatever, he is in the business to do something about it.

Senator FORD. Well, if I understood you, that individual has a duty to reveal the problem, and there should be no penalty past or present or future.

I wrote that down from your statement. The individual has a duty to report it.

Judge CLARK. Yes, Senator.

Senator FORD. And then there should be no penalty?

Judge CLARK. That is correct. I thought that was inferred in your question.

Senator FORD. Well, it was inferred, but you are the justice. I'm just a country boy without a law degree.

The CHAIRMAN. Thank you.

Senator Melcher.

Senator MELCHER. Mr. Chairman, thank you and my colleagues for giving me this chance to complete my questioning.

Judge Clark, let me get to the duties of the Secretary of the Interior as required under the law. How do you view that? For instance, how do you view article IV, section 3, clause 2 of the Constitution which is the basic authority for Federal land management?

Judge CLARK. Well, I think in one term, Senator, and that is stewardship—a trust in the management of all the people's property, and that is a high duty. That treatment or management, really rises above a standard of care that one would have for his own property.

Senator MELCHER. Whose stewardship is it primarily?

Judge CLARK. Well——

Senator MELCHER. Who has the primary responsibility for that stewardship?

Judge CLARK. The Secretary of the Interior for the lands within the jurisdiction of that Department.

Senator MELCHER. Well, the article I refer to as well as the section and the clause relates to Congress.

Judge CLARK. I don't have the section before me, Senator.

Senator MELCHER. It is very short.

Congress shall have the power to dispose of and make all needed rules and regulations respecting the territory or other property belonging to the United States.

It is a very short clause.

Now where does the Secretary fit in that?

Judge CLARK. You asked me I believe about the Secretary's duties, Senator, before reading the section. Do you wish to talk about the congressional duty or the Secretary's duty?

Senator MELCHER. I wish to talk about the limitation of power.

Judge CLARK. All right.

Senator MELCHER. What is your attitude about it?

Judge CLARK. Well, I wonder if you could repeat the question, Senator, so I know whether we are talking about the Secretary's duties or congressional powers?

Senator MELCHER. Where does the Secretary get his authority? We will start there.

Judge CLARK. I will have to say I am not sure whether there is a designated section in the Constitution, but I can speak generally that within the separation of powers, he has the power of any director of any department. The basic power is derived from the Constitution.

Senator MELCHER. The Constitution is very firm on it. The section, clause 2 of section 3 of article IV—I just cited only part of it—gives the Congress the power to dispose and to make all rules and regulations respecting the territory and property of the United

States. This is key. There is no authority for the Secretary of Interior that isn't derived from Congress.

Are you familiar with the 1976 case of *Kleppi* v. *New Mexico?*

Judge CLARK. As I sit here, no, Senator. I am not familiar with the case by name alone.

Senator MELCHER. I had assumed that Secretary Watt was familiar with that case. It is a 1976 case. Are you familiar with *Kleppi?*

Judge CLARK. Yes. He preceded Secretary Andrus as the Secretary of the Interior.

Senator MELCHER. I had assumed that Secretary Watt knew that case, understood it. I also assumed that you had, prior to coming to this hearing, reviewed that case to cover one very significant point.

I was appalled. I thought Secretary Watt was being misquoted when I read of his proposals to make sales of public lands.

What is your attitude on that?

Judge CLARK. On what, Senator?

Senator MELCHER. Making sales of public lands.

Judge CLARK. Sale of public lands is strictly construed from the law and comes under primarily FLPMA—which you and I have discussed before—and there are three criteria for the sale of that land. Either the parcel under consideration is isolated or uneconomical to manage.

Second, the purpose for which it has been acquired and held is no longer at issue, and therefore it is uneconomical to maintain.

Third, the Department is empowered to dispose of property to State or local governments for a proper governmental purpose at that level.

Senator MELCHER. What is the acreage limitation established in FLPMA for any such sale or disposal to State or other government?

Judge CLARK. I am unaware of any acreage limitations, Senator.

Senator MELCHER. That bothers me, Judge. We did discuss this 2 days ago. I suggested that I would be interested in your response to questions along this line. It bothers me that you don't know of the limitation. This tracks with comments attributed to Secretary Watt in print or in broadcast news accounts which I thought to be misquotes.

There is a limitation. It is very strict statutory limitation. As far as I know, the only vehicle that could be used to dispose of Federal lands under the stewardship of the Secretary of the Interior is FLPMA. You don't seem to be aware (A) that there is a limitation, and (B) what those limitations are. But there are limits. Of the 750 million acres of public lands, FLPMA was very zealous in pointing out again that those lands would be retained in public ownership. That provision was an outgrowth of all the past congressional actions and the Public Land Law Review Commission's recommendations following their presentation to Congress.

The CHAIRMAN. Senator Melcher, may I ask a question? Maybe I am confused, but I understood your question to be what limitation is there on the disposal of public lands to State and other agencies in the sale of public lands.

Senator MELCHER. Or other criteria.

The CHAIRMAN. Then I would understand your followup question to have somewhat merged that with the total disposal authority

limitations under FLPMA. If I recall, there are a number of other acts with respect to the disposition of public lands for various purposes other than FLPMA such as the Desert Land Act, the Homestead Act where it is applicable, if indeed it is applicable anywhere today; the Public Purposes Act and others, that are on the books today, that deal with some aspects of public land disposal.

Now I am not sure that your question was directed toward those or whether it was just what is the limitation in FLPMA.

Judge CLARK. Senator, I understood the question to be even more limited, and that is the acreage limitation. Now if that is not the question, I think we had better revisit it.

Senator MELCHER. Yes. I appreciate the comments of the chairman, and we better revisit the question to clear it up on the record.

The question regards limitations under FLPMA. The other acts of which the chairman is speaking are entirely separate and have no bearing on the question that we are addressing here. The question regards the sale of public lands authorized by Congress under FLPMA. The limitations are very strict. You gave the criteria that would be allowed and the method that would be applied in general.

My question is simply what is the limitation?

Judge CLARK. In acreage?

Senator MELCHER. Yes.

Judge CLARK. I have said that I am unaware of any acreage limitation as such. We will soon be conveying 2½ acres or maybe 3 acres in the county of Lane, Oreg., as an example, Senator, and in the last 3 years some 10,000 acres total have been conveyed by the Department under one of the three criteria that I have enumerated. I repeat, I do not know of an acreage limitation within the FLPMA.

Senator MELCHER. Section 203 establishes that acreage limitation—no parcel to be greater than 2,500 acres.

Judge CLARK. Thank you, sir.

Senator MELCHER. We also discussed this very briefly on Monday when we met. What is your attitude on the wisdom of the policy that allows for swapping Federal coal lands and railroad coal lands in order to remove the checkerboard pattern of ownership in the Western States?

Judge CLARK. Yes, Senator. This is strictly regulated by law going back to the 1920 Mineral Property Sales Act. The law, I believe was and still is rather clear that railroad companies are not allowed to purchase or hold coal lands other than for their own purposes, and you asked specifically whether certain patents that had apparently had been negotiated some time ago, had actually been delivered or filed in your State within this checkerboard pattern. I did check that for you and determined that, in early October, those patents actually issued. As far as my attitude in the matter, I have none other than my assurance to you that I will follow the law, and if the law is changed by repeal of section 2(c), which goes to the heart of your question, then, if confirmed as Secretary, I would follow the law as Congress will provide.

Senator MELCHER. All right; 2(c) of course refers to the 1920 Mineral Leasing Act, which prohibits land grant railroads from getting Federal coal leases.

The public purpose set forth in section 2(c) is to prevent land grant railroads from mining, transporting, and selling Federal coal.

Under section 206 of FLPMA, railroads now are attempting to consolidate their ownership by trading their lands for Federal coal in the West. Two or three of these proposals have been made. One, I think you indicated, has been consummated. Perhaps others have. The one to which I refer is with the Burlington Northern, in their trade in McCone County, Mont. It is the BN's intention to mine that coal themselves or through a wholly owned subsidiary. If that happens, the effect is to avoid the restriction of 2(c) and the railroad is in a position to transport, mine, and sell coal.

As a matter of public policy, do you believe that this is good or bad?

Judge CLARK. I don't have a personal belief other than by referring to the law again, Senator. We know that is in disarray. We have a Solicitor's opinion, I believe, from the 1970's which says that the use of subsidiaries by the railroad companies is proper.

We know that has been challenged now or will be the subject of litigation if there is no a repeal. It is an area that I would, if confirmed, disallow myself a personal opinion until the litigation or possible repeal had been completed, but I understand the concept.

Senator MELCHER. All right. The question goes to what should be the Secretary's attitude. As a matter of public policy it is proper for Interior to set in motion a situation where a land grant railroad would be mining, transporting, and selling the coal? Is that a fair or is that an uncompetitive practice? And so I think it is a question that the Secretary must review as policy as to how he wants to expedite these applications for coal swaps.

I would only caution you at this point to consider very seriously the competitiveness question and to discuss that with members of both the public and Congress to get their attitudes on it. It is indeed in litigation at this time, and the question is one of antitrust.

I further ask you to make certain that I am informed of any proposed coal swap in Montana by Burlington Northern or any other railroad entity which may not at first sight appear to be part of the Burlington, but is a subsidiary.

Judge CLARK. You have that assurance, Senator.

Senator MELCHER. In your duty as Secretary, how do you view the trust responsibility with Indian tribes.

First of all, I will pass on a request of Indian cattlemen in my State of Montana who would like to meet with you to discuss their particular hardships. I pass that request on to you. You need not respond to it. You may make this decision based on what you find in your policy as Secretary if you are confirmed. I only serve as a conduit to relay that request.

Judge CLARK. Fine.

Senator MELCHER. My question goes to the trust responsibility that the Secretary has toward Indian tribes. I pose a specific question.

In the water lawsuits that are now pending, what would be your recommendation to the Congress or to the administration in authorizing Federal funds from the Treasury for the defense of non-Indians in these lawsuits. You should fully realize that there is

no authorization by statute for this. You should also fully understand that the United States will represent the Indian tribes in those lawsuits as part of the trust responsibility?

Judge CLARK. Yes, Senator. The issue is one of concern in this committee, particularly Senator Domenici and yourself. In the face of rather heavy litigation, some 50 actions now pending in the area of water rights on and off reservations. This is a policy question which must be decided and, hopefully, the problem can be reduced by negotiation designed to settle some of these many actions.

But in the meanwhile, attorneys' fees are normally granted only by statute. I have no personal opinion as to whether they should or should not be in these circumstances. I think that this should be determined by this committee in listening primarily to the regional problems and equities which would include potential hardship to defendants who, I understand, are private parties forced to compete with litigants who are provided representation by the Government, primarily the Department of Justice. It is a matter of weighing the equities and I understand those equities, but, in this position, I would not be ready in fairness to make a recommendation.

Senator MELCHER. I think that is a fair answer. I suppose it might be interpreted by many as not being a very definite answer. Did you say in all cases or ordinarily or that it should be the case that these fees for litigants are only paid on the basis of Federal statute?

Judge CLARK. That is the general rule. Attorneys of the Committee can assist, but attorneys' fees are normally provided by statute.

Senator MELCHER. Since they are not provided by statute, it is your position that you would not recommend that Congress appropriate funds unless Congress wants to make a change in the statute? Is that a fair interpretation?

Judge CLARK. No; I don't think so, Senator. Certainly there are other equities involved here, and we may have the power now without additional statutory authority.

Senator MELCHER. Who is "we"? We are the Secretary? You are saying Congress has that authority?

Judge CLARK. I say may have.

Senator MELCHER. May have that authority. I think that is a prudent answer. In any event, let's get back to the trust responsibility.

How do you envision the Secretary's trust responsibility should you be confirmed?

Judge CLARK. Well, reaching again to the law, Senator, Chief Justice John Marshall referred to the tribes as dependent domestic nations, and this administration, taking guidance from that concept, looks upon the responsibility as one of dealing on a government-to-government basis. This contemplates as much self-sufficiency, self-determination as possible for the Tribes. I believe we have proceeded accordingly.

The term "responsibility" is a difficult one, as revealed by complex treaties, legislation, interpretation, by the Department, but generally it is a government-to-government relationship.

Senator MELCHER. I want to thank you very much, Judge, and I want to thank you, Chairman McClure, and members of the committee for allowing me this opportunity.

The CHAIRMAN. Thank you, Senator. I understand others may have questions. I want to remind members of the committee that Judge Clark has now been before this committee for 8 hours and 20 minutes or thereabouts, and that we have six panels of citizens and the representatives of interested groups who wish to also have the opportunity to testify and whose advice we wish to receive, and as Senator Melcher knows, we also have the natural gas bill on the floor and that will call a number of the members of this committee away so I hope we can conclude this part of the hearing sequence, and I don't mean to cut anybody off, but unless it is necessary to ask questions, if members feel strongly about the necessity of making comments, I hope you will abbreviate as much as possible from this point forward and get on with the balance of the panels.

Senator Bumpers.

Senator BUMPERS. Judge Clark, there was just some lingering doubt in my mind about the questions that I asked you at the close of the hearing yesterday, and I think it would be good to clear the air for you and to remove any lingering doubts that I might have. That is regarding this question as to whether or not you actually ever unilaterally or in concert tried to discredit Chief Justice Rose Bird in California. Yesterday at the close of the hearings I asked you if you had ever been involved in such an effort to discredit her, and your answer was that a commission had been appointed to investigate this and that it had concluded there was no evidence of wrongdoing.

Is that a fair characterization of your reply yesterday?

Judge CLARK. Well, if I may take it in parts, Senator Bumpers, first of all, to your basic question, the answer is "No".

Senator BUMPERS. Are you saying no, that was not your answer yesterday?

Judge CLARK. No—no to your question of——

Senator BUMPERS. Whether or not you were involved in any such effort?

Judge CLARK. To discredit Chief Justice Rose Bird?

Senator BUMPERS. You are giving me an emphatic no, you were never involved in that, singly or in concert?

Judge CLARK. That is correct.

Senator BUMPERS. All right.

Judge CLARK. And second, Senator Bumpers, as I mentioned yesterday, and I forget the year, but in the 1970's—you have the record, of course—the chief justice came up for a statewide public confirmation, as each justice must on the appellate courts in California.

There was speculation concerning a certain controversial criminal case, *People* v. *Tanner*—then a four-to-three opinion in which I wrote the dissent—involving was a question of whether the State legislature meant what it said when it provided that anyone using a firearm in the commission of robbery would have to spend some time in the State penitentiary.

The majority of four said no, a trial judge need not abide by the statute. Writing for the dissent, I said I believe that the legislature meant what it said. There was speculation that the case was being held somewhere in the procedural chain to avoid publication, thereby revealing Justice Bird's refusal to implement the statute

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prior to the public vote on her confirmation. That speculation existed, I believe—and it is all in the record—for a number of weeks, creating somewhat of a shadow over the integrity of the court. The question raised was whether there had been manipulation in the delay of that case.

On the day of the election, the Los Angeles Times ran a front page article—again this is ancient history—suggesting the possibility that *People* v. *Tanner* was ready for filing and that there may be some court justice who was causing it to be held up, thus giving the chief justice a little break with the voters.

Senator BUMPERS. The asumption being this was going to be a very unpopular decision that Chief Justice Bird had written?

Judge CLARK. That is correct. The issue on the street was a rather emotional one during a period of high crime in California. Election day, of course, arrived and she was reelected or approved. There were contentions added to earlier contentions that maybe the Los Angeles Times article itself had been created by one or more persons on the court in order to frustrate the chief justice's hopes on that ballot. There were two issues really—had the case been held up? And second, had there been some unauthorized disclosure of the court's methods to either the LA Times or any other newspaper?

To clear the air on both issues, the chief justice called upon a California constitutional commission charged with reviewing any impropriety of the judiciary. There were extensive hearings under oath.

Senator BUMPERS. Were some of these hearings in closed sessions?

Judge CLARK. Open hearings went on, Senator, for a full month, before being recessed to closed hearings.

Senator BUMPERS. You testified before the Commission, did you not?

Judge CLARK. Yes.

Senator BUMPERS. In open session?

Judge CLARK. Yes, Senator, and on both issues I might add—the progress of *People* v. *Tanner,* and the question of any unauthorized disclosure.

One justice, when it came time for him to appear in open session, commenced an independent action to a stay proceedings. He refused to appear in the open session on the basis that an open hearing violated California constitutional provisions. He prevailed and the hearings were then closed. He testified only in closed session. The Commission later formally reported that there had been, effectively, no impropriety by any Justice, either on the part of justice Bird or on the part of any justice for having made an unauthorized disclosure.

There were analyses of that Commission's activity by Preble Stoltz, a Boalt Hall law professor who attended the open hearings. A more recent book has stated views in opposition to those of Stoltz.

Senator BUMPERS. Was that the book called "Framed"?

Judge CLARK. Yes; it is, and I think the Stoltz book was "Judging Judges." That came out very close in point of time by Mr. Stoltz.

Senator BUMPERS. That is a pretty good scenario, and you have given it to me very much as I understood it. However, it was my impression that the Commission concluded not that there was no wrongdoing, but instead that quote, "no formal charges will be filed against any Supreme Court Justice."

Judge CLARK. I think it went beyond that, with all due respect, Senator, again that record is clear. As I mentioned the other day, the only two associate justices on the court at the present time who were also there in that era, having heard about the Village Voice article you referred to, communicated with us stating that they would, voluntarily and at their own expense, come back here if the article should come into issue. If you desire that for any reason, I am sure they would be willing to comply.

Senator BUMPERS. I don't consider this to have the kind of magnitude perhaps that would require that, but any time serious ethical questions like this are raised, they should be resolved if at all possible.

Judge CLARK. I agree.

Senator BUMPERS. You spoke to a Rotary Club about a week after the Commission announced its results, according to this article, in San Luis Obispo, and you said that it was—this is a quote from your speech; "* * * obvious that the recent investigation of the High Court was inconclusive and that confidence in the court had not been restored."

Did you say that?

Judge CLARK. I would have to check that and submit an answer. It is a long time ago, and there has been some further action in the interim, Senator. There was a rehearing in the case of *People* v. *Tanner*. The final decision in that case—my minority opinion eventually became the court's majority opinion.

Senator BUMPERS. I probably would have agreed with your minority opinion on felons or anybody else getting extra time for using a firearm. That is the side I come down on, and I have always supported that in Congress, but that is not at issue here. We are not talking about the substance of the decision.

The real issue here is whether or not there was any effort by you to leak information so that the Los Angeles Times could write that lead story the day before Chief Justice Bird's standing for reelection.

I have a strong feeling and sensitivity about that kind of thing. You are certainly not being accused here in any way. I just wanted to clarify these points.

[Brief pause in the proceedings.]

Senator BUMPERS. Judge, the chairman has just said that I may have misled you and I may have misstated something for the record and I want to clarify that.

I intended to say that I would probably have been on your side had I been on the California Supreme Court in the *Tanner* case because I feel very strongly that there ought to be mandatory sentencing where a firearm is used. If I misled you or misstated the record, I want to clarify that, but as I said, that is not the issue here that I am dealing with.

Judge CLARK. Could I——

Senator BUMPERS. You were about to respond? Yes.

Judge CLARK. Senator, I want to make it very clear, no, you have not misled me in any way.

Senator BUMPERS. As I say, that is really not relevant to the line of questions.

Judge CLARK. The reason I made my statement is that a lot of things have happened since the commission hearings, and since that issue has been raised here I don't want any doubt to exist about the conclusions or what that Commission found.

I join you in my abhorence of any impropriety on any court or even the suggestion of it, but I will contend that that issue was clearly answered by that Commission. Rather than your or my trying to characterize that conclusion, as a fellow lawyer, I think you will agree that we better let it speak for itself and without cluttering the Congressional Record which I realize is a rather active volume each day, I would——

The CHAIRMAN. Judge, we clutter the Record every day.

Senator BUMPERS. Don't worry about cluttering the Record. If we start worrying about that around here——

Judge CLARK. We are talking about thousands of pages. I would, however, Senator, ask that you review that record which is available in both total form and very fine analysis by Professor Stoltz who, by the way, was Chief Justice Bird's professor at Boalt Hall, University of California, and was also a member of Governor Brown's inner staff at the time that Rose Bird was also a member of that staff, so I would——

Senator BUMPERS. If this committee chose to call anybody about this matter, would he be your first choice?

Judge CLARK. He was in attendance at all open hearings. We are referring to Professor Stoltz?

Senator BUMPERS. Yes.

Judge CLARK. Upon the conclusion of the Commission hearing he gave his full analysis, and that volume is available, close in point of time to the action. But as the two of us know, the best evidence is the record and the conclusions of the Commission itself, so if there is any doubt and you said there was when you arrived this morning, I would commend that report to you.

Senator BUMPERS. Let me just ask you one final question, Judge Clark, and I will not belabor this further. You have been very patient and the chairman has correctly pointed out that you have been here for a long time. These things are very trying for a witness and I understand that.

Did you talk to a Los Angeles reporter the day before the article came out in the Los Angeles Times? And if the answer to that is yes, did you suggest to him that perhaps the *Tanner* case was being delayed?

Judge CLARK. Again, Senator, the answer will have to be what was testified to under oath at the time, and I have not reviewed that nor do I want to set myself up in contradiction to testimony given under oath on that occasion.

Senator BUMPERS. You have no independent recollection of talking to a Los Angeles Times reporter?

Judge CLARK. Yes.

Senator BUMPERS. The day before that article appeared?

Judge CLARK. I don't know the point in time. I received a call from such a reporter, as did other justices on the court in the same frame of time. But to tell you what day and what was said, I refer you to the very clear testimony, Senator. Being an attorney, I think you can understand my wish to stand on the record rather than—some 4 or 5 or more years later—try to tell you what occurred at that time on the court.

I stand, of course, behind whatever was then testified to and what was found.

Senator BUMPERS. What you testified to at that time?

Judge CLARK. Yes, Senator.

Senator BUMPERS. Did the Los Angeles Times reporter also testify?

Judge CLARK. I don't know. Again, it is within the record. I am not going to guess as to whether they did or not.

Senator BUMPERS. You have no independent recollection of having suggested to that reporter that you say you did talk to at some point in time that perhaps this decision was being withheld for political purposes?

Judge CLARK. I am confident I did not say that, Senator. Again, I do not wish to breach my own rule of standing on the record.

Senator BUMPERS. OK. Thank you, Mr. Chairman.

Judge CLARK. Again, Senator, if you don't have it now, although you may, I would ask that you review the Commission record. If there is any further question in your mind, I stand ready on any question involving integrity, and I believe that does.

Furthermore, we have, as I say, two justices having heard that this issue has arisen in the minds of some. They will cooperate in any way that you wish.

Senator BUMPERS. Judge, I wouldn't presume to lecture you or to be pontificated about this, but ever since the era of Joe McCarthy I have always worried about unfair tactics distorting the political process. It is anathema. It is insidious, and it is dangerous to the process, and the reason I raise this line of questioning is not that I am suggesting that anything illegal happened, but only because I am always appalled when I see elections swayed. I am not talking about just run-of-the-mill accusations. I am talking about something really insidious that distorts the outcome of an election and therefore erodes the democratic process.

Things like that really do cause me to pause. That is the reason I brought it back up again this morning. Everybody doesn't feel perhaps as strongly as I do about that. I thought it was worth your time and mine to try to have it clarified for the record.

Judge CLARK. Senator, I think there is not a person in this room, or at least I hope there is not, who would disagree with your premise in that regard, including this witness.

Senator BUMPERS. Thank you, Judge.

The CHAIRMAN. Thank you very much, Senator, and thank you, Judge Clark.

Are there any other questions? And again I would remind the members that we have six panels yet before us to be heard today, and they have been waiting patiently, and I know that some of them, I note some of them looking at their watches as though they believe time is flying. They know what their schedules are and I

hope we can get the opportunity to hear from the other witnesses. Yes, sir?

Senator MURKOWSKI. I wonder if I may just make an observation. After participating a good deal in yesterday's hearing and hearing you, Judge Clark, respond to various questions, it was obvious to me that the media has already generalized your position, and I think that is indeed unfortunate, where certainly many of the questions were directed to your particular attitudes toward specific environmental issues, and many of my colleagues have directed these questions in the hopes that you would respond toward the proenvironment point of view, and others have only asked that you be objective and that you basically uphold the law, and I think the general manner in the questions reflects what takes place in these hearings, and I find it, frankly, to some degree objectionable in the sense that those that would recognize the necessity of this country's developing its resources in moderation with consideration of the environment and the ecology are not asking that you respond or lean toward their point of view, but certainly the extreme environmental movement is, and Mr. Chairman, I look forward to those opponents of your particular nomination as Secretary of the Interior because I think it represents a very unfair position.

Thank you for the opportunity to make that comment.

The CHAIRMAN. Thank you, Senator Murkowski, and again I want to thank Judge Clark for his patience and I think candor in answering some of these questions. Oftentimes the answers went beyond the questions to make certain that there was nothing left around the edges of that question or misunderstood.

I think I should at least in partial response to what Senator Murkowski has said indicate that there has been mixed news coverage concerning the testimony yesterday, and I can't help but note that which appeared in the New York Times by Phillip Shabikoff who said that his testimony demonstrated a general knowledge of the issues he would face as Secretary of the Interior, and I don't mean to take that out of context, but that statement I think is helpful to the record, and it was carried in the news reports with wide dissemination.

Judge Clark, thank you very much for your testimony, and to Mrs. Clark, again you are very welcome as a witness to what has gone on.

Judge CLARK. Thank you, Mr. Chairman, and I thank the committee for its patience. I have learned perhaps more from many of your questions than you have from my answers, but it has been a pleasure to be here. Thank you.

The CHAIRMAN. Thank you very much. Congressman Dannemeyer has indicated the desire to make a statement at this time. I ask Congressman Dannemeyer to come forward.

Mr DANNEMEYER. Good morning, Mr. Chairman, members.

The CHAIRMAN. Congressman, you are always welcome before this committee. It is a pleasure to see you on this side of the Capitol. As we oftentimes do, we consult on various issues that do come before the Congress of the United States.

You may proceed.

STATEMENT OF HON. WILLIAM E. DANNEMEYER, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. DANNEMEYER. Thank you very much, Mr. Chairman and members of the committee. I represent a congressional district in southern California. It is called Encino, and I am here today to support the nomination of Judge Clark for head of the Department of the Interior, and I hope this committee will see fit to recommend to the full Senate the successful confirmation of his nomination to that job.

I could recite a lot of reasons in his background, but I will leave that for him to describe and for staff to prepare for your analysis. I would just like to make some observations with respect to where I think our Nation is on this issue on environmental policy and economic development.

I am in my fifth year in the House, and since coming here I have been frankly amazed at the extent to which certain extremists in the environmental movement in this country have assumed a position of arrogance to speak for assertedly a majority of the American people, and it is that reason that brings me here in this brief moment to express my thoughts on this issue.

The reason that I say that is because one of the things that Secretary Watt tried to do in his tenure in that job was to develop energy independence for America, and it seemed like when he, Mr. Watt, would propose policies within the law to do that, to achieve that objective, he was continually criticized by people in what I call the environmental movement.

In my home State of California, for instance, with respect to leasing in the OCS off of our coast, a recent poll in September of this year indicated that 56 percent of Californians believed that development of our OCS and protection of the environment was compatible, and 59 percent of the people in our State were in support of OCS drilling, and yet when you analyze the congressional delegation in the House of Representatives from California, of the 45 Members, only 6 of 45 were in support of OCS. Why? Why would ever member of the Democratic Party from California in the House, 82 of them, be opposed to OCS, be so at variance with the substantial majority of the people of our State on a very vital issue?

Why would only 6 of 17 Republicans be in support of that position? Well, I think it is because in this country in the seventies a drum beat has developed on the part of the leadership of the environmental movement headquarters here in Washington which establishes that this leadership in Washington, D.C. is substantially at variance with what the vast majority of our people in this country believe, and I said just that one issue of OCS.

I want to commend the leaders of the National Wildlife Federation consisting of 4.1 million members in this country and also the National Audubon Society of 350,000 people in their membership who have at least elected to stay neutral with respect to the nomination of Judge Clark.

With respect to the Friends of the Earth, the Environmental Policy Center, Sierra Club, the Wilderness Society, let me say that those representatives have the right to come before this body and

say anything they choose to say, but one of the thoughts I want to leave with this committee is do they have the right to say what they are saying at taxpayers' expense? And why do I make that statement? Well, it seems like one of the main motivations, not the motivation, but one of the main motivations which prompted certain leaders of the environmental movement to fear Jim Watt becoming Secretary of the Interior and now to oppose Judge Clark as his replacement was their perception that somebody would turn off the money tree in terms of grants that their organizations had historically been receiving in order to advocate their point of view.

For example, the Sierra Club in 1981 received $256,250 from the EPA. In 1982, the first year of the Reagan administration, they received $46,894—a substantial cut. Again I will say the Sierra Club can take any position it chooses to because that is part of being a free society, but do we taxpayers in this country have to subsidize what they are saying through Federal grants?

Now the National Wildlife Federation, bless their hearts, they are an example of what I would call the last man out clean out the safe because when the last of President Carter's appointees left the offices of DOE and EPA, that is precisely what they did. On January 23, 1981, the National Wildlife Federation received a grant. You recall this was just the last gasp of the Carter appointees in that Department, of some $451,600, in order to perform what they describe in that grant. That money came from EPA and the Department of Energy.

Then in 1982 they were reduced to $75,508, and the reduction in the money that agency received in 1982 over 1981 I think is a reflection of their fear that the money faucet would be shut off to them.

Then I think the Friends of the Earth likewise had a similar fear that was confirmed. In 1981 they received $1,345. In 1982, they received none.

Then the Natural Resources Defense Council also was a beneficiary of that philosophy—the last man out before closing the door clean out the safe—because on January 21, 1981, they received a grant of $816,382 in order to pursue the course of the policies which their membership caused and produced. I might say all 35,000 of their membership—and in 1982 they got $132,423, a significant decrease in the funding for their activities.

And then, of course, the Environmental Action Foundation was also a beneficiary of that last gasp devotion of money from the EPA in this instance when on January 28, 1981, they got $74,508 and on January 29, 1981, they got $71,093, and then what do you know, in 1982 they got nothing, and so their fears were likewise confirmed.

I cite these figures to the members of this committee in your deliberations, that when these erudite representatives of these environmental organizations testify, if any of them do, in opposition to the confirmation of Judge Clark being head of the Department of the Interior, one or more Senators may want to ask them, is your organization currently getting any Federal taxpayer money to permit you to testify here, and if so, how much? And do you intend to continue to apply for taxpayers' dollars in order to advance your point of view in this country?

So I might sum up my observations by saying what has happened to us really is that if a person comes along, a man or a woman, that is an appointee of a President to a policy position in Interior dealing with the environmental drumbeat from these environmental organizations, if that person believes in a balanced development, that we can develop our natural resources and protect our environment at the same time, that that philosophy is at variance with the best interests of this country and such a person should not be permitted to occupy the Department of Interior, I think that is ridiculous.

I believe that we can have development of our resources in this country along with protection of the environment simultaneously, and that should be our goal, and I will come to this observation, that you know from the OCS issue off the California coast that I think it is far more humane for me as a Member of Congress to explain to parents residing on the coastline of California why we are having drilling platforms off the coast of California for exploration of oil and natural gas than it is to explain to those parents why we want their sons or daughters to come into the military so that they can go to the sands of the Middle East and fight for a resource which our culture and economy deems indispensable for our continued economic well-being, and I just refuse to believe that people in this country are deliberately going to take our Nation down the road of energy dependence where we are going to sit here in the face of importing 4 million barrels of oil a day, about 35 percent of our usage, and not take those steps that are necessary in order to reduce that dependence and establish energy independence for America so that it is in all of our interests in so doing, and I thank you for the privilege of coming here to testify.

[Chart submitted for the record follows:]

ENVIRONMENTALIST FEDERAL FUNDING

Organization	Membership	Annual income (millions)	Award grants		Granting agency
			Year	Amount	
(1) Sierra Club	167,000 (1980)	$8.5 (1980)	1978	$68,700	EPA
	365,000 (1982)	13.0 (1982)	1979	176,713	EPA
			1980	61,297	
				(60,097)	EPA
				(1,200)	DOE
			1981	256,250	EPA
			1982	46,894	EPA
Total				609,854	
(2) National Wildlife Federation	4,000,000 (1980)	24.0 (1980)	1978	57,372	EPA
	4,100,000 (1982)	37.1 (1982)	1979	58,500	EPA
			1980	208,701	EPA
			[1] 1981	607,604	
				(564,167)	EPA
				(43,437)	DOE
			1982	74,508	EPA
Total				1,006,685	
(3) National Audobon Society	350,000 (1980)	8.0 (1980)	1977–81	221,483	DOE, EPA, NEH
		22.0 (1982)			
(4) Natural Resources Defense Council	35,000 (1980)	1.9 (1980)	1979	25,000	DOE
		4.5 (1982)	1980	360,000	EPA

ENVIRONMENTALIST FEDERAL FUNDING—Continued

Organization	Membership	Annual income (millions)	Award grants		Granting agency
			Year	Amount	
			[2] 1981	816,560	EPA
			1982	132,423	EPA
Total				1,333,983	
(5) Friends of the Earth	22,000 (1980)	0.67 (1980)	1978	6,425	DOE
		1.3 (1982)	1979	30,000	DOE
			1980	14,500	DOE
			1981	1,345	EPA
			1982	0	
Total				52,270	
(6) Environmental Defense Fund	44,000 (1980)	1.6 (1980)	1981	36,349	
				(19,999)	DOE
		2.8 (1982)		(17,350)	DOI
			1982	99,534	EPA
Total				135,883	
(7) Citizens/Labor Energy Coalition			1981	10,000	EPA
(8) Center for Renewable Resource			1979	613,153	
				(183,093)	EPA
				(430,060)	DOE
			1980	172,000	
				(80,000)	EPA
				(92,000)	DOE
			1982	787,510	DOE
			1982	0	
Total				1,573,663	
(9) Environmental Action Foundation			1977	58,728	EPA
			1978	0	
			1979	59,000	EPA
			1980	0	
			[3] 1981	179,644	EPA
			1982	0	
Total				297,372	
Total				5,240,193	
Carter money				3,459,554	
Reagan money				1,780,639	

[1] $451,600 of the 1981 grant money took place during the Carter lameduck period. The balance, $156,004 was Reagan money.
[2] $816,382 of the 1981 grant money took place during the Carter lameduck period. The balance, a whopping $178, was Reagan money.
[3] $145,601 of the 1981 grant money took place during the Carter lameduck period. The balance, $34,043, was Reagan money.

EPA GRANTS TO ENVIRONMENTAL GROUPS DURING THE LAME-DUCK CARTER ADMINISTRATION

[Between Nov. 4, 1980 and Feb. 1, 1981. The date extends to February because lower-level administration officials were mostly Carter appointees or hires until that time]

	Date	Amount
Environmental Action Foundation	1/28/81	$74,508
	1/29/81	71,093
National Wildlife Federation	1/23/81	451,600
Natural Resources Defense Council	12/17/80	4,810
	1/21/81	816,382
Sierra Club	12/17/80	6,852
Total or 28 percent of the entire grant money given to environmental groups over the last 6 yr		1,425,245

Note.—United States Code 42, 4368 (7) governing EPA grants reads as follows: "No financial assistance provided under this section shall be used to support lobbying or litigation by any recipient group." The environmental groups get around this law by using their moneys "to increase public participation."

The CHAIRMAN. Thank you very much, Congressman. Senator Hecht, do you have any questions?

Senator HECHT. No.

The CHAIRMAN. Thank you for your statement. I appreciate it.

Congressman DANNEMEYER. It's a pleasure to be here. Thank you very much.

The CHAIRMAN. Our first panel will be composed of Mr. Ralph Nissen of the National Water Resources Association on behalf of the Association of California Water Agencies; Mr. Paul L. Kelly, vice president of industry and Government relations, Rowan Co.

Mr. John Laborde who was to testify today has found it impossible to be here today. His testimony will be submitted and made a part of the record.

[The prepared statement of Mr. Laborde follows:]

TESTIMONY

BY

JOHN P. LABORDE
CHAIRMAN & CHIEF EXECUTIVE OFFICER
TIDEWATER, INC.
NEW ORLEANS, LOUISIANA

On Behalf of the

National Ocean Industries Association

To Be

Entered into the Record for the Confirmation Hearing

by the Senate Energy & Natural Resources Committee

of

William P. Clark

to be the Secretary Of The Interior

Washington, D.C.

2 November 1983

Good Morning - I am John P. Laborde, Chairman and Chief Executive Officer of Tidewater Inc., a public investor owned offshore marine service company based in New Orleans, Louisiana. Tidewater's principal business is providing marine equipment for lease and charter to oil companies and others engaged in the search for and development of energy resources on the outer continental shelves in places wherever oil and gas is searched for and/or found offshore.

I am here today representing the National Ocean Industries Association. My company is one of the 435 companies which are members of NOIA. The great majority of NOIA members are service companies located in 34 states and doing business in all of the 50 states.

I am interested in the orderly and balanaced development of our offshore energy resources for several reasons - primarily because I believe development of those resources is in the best interests of this country's overall well being and its national security in these troubled times; and because our economic well being, particularly my part of the country, is heavily dependent upon energy production for jobs and and the payrolls that flow from those jobs. To illustrate the magnitude of the industry's importance to our economy, in Gulf South there were 40,000 workers employed in oilfield related activities and the annual payrolls were in order of $600 million in the 1978-81 period. Today's conditions indicate that work force is reduced by 35% to 40%. The rig fabrication business, a one time large user of labor, is down to almost zero backlog in the larger yards; smaller ones have disappeared or are finding other types of work. The story is the same for shipyards. Collectively those yards produced 200 plus boats a year. Now they are reduced to zero backlogs. Many are no longer in business. I am not aware of any orders for new vessels given to any Gulf Coast yard in the past 8 months nor do I anticipate any for the next 12 to 24 months.

It is clear that we, particularly the service industries, now lag behind the rest of the country in sharing the benefits of a viable and expanding economy. The lag is painfully apparent to those of us who work in those industries and who have experienced the severe reductions in business activity with consequent layup of equipment and lay off of crews. At the moment, the prospects, although somewhat better than a few months ago, do not suggest a dramatic reversal of our situation, but there are indicators which suggest a slight and gradual upturn within the next year or 18 months in the state of our business. Right now, a large percentage of the fleet of service vessels (estimated at 30% to 40%) is laid up and their crews are still out of work. On the positive side, there are those indicators, referred to previously, suggesting an interest in a renewal of offshore drilling in the Gulf of Mexico - very probably attributable to the area wide lease sales this year. However, speaking for my company, I can say none of these signs have yet translated into jobs for our seamen or employment for our equipment. I think this is true of all service companies, from large drilling contractors to the small one boat owner. This is but a brief overlay of conditions in this once healthy industry. I cite them here to underscore the importance of a viable OCS development program.

In these times of so many uncertainties in many places of the world where oil is produced, it is imperative that we, in the U.S., get on with development of our own resources, if only to generate accessible reserves for our own use. I can think of several hypothetical scenarios which could and (probably will if they come about) adversely affect this country. One need not dwell too long on the consequences of Iran's threat to close the Straits of Hormuz on the energy situation here and in the western world - or for that matter, an escalation of the Iraq-Iran conflict involving the neighbors of the two countries. It is my belief that OPEC, albeit at the moment not the force it was in 1973 through

1980, has the potential to create oil shortage conditions very nearly like those of 1973-74. Admittedly, we, in this country, have found other sources of oil; some more stable and dependable, others not so politically or economically stable. And, it is clear that we in this country have tended to try to invoke some economies in energy consumption - small cars, using less energy; insulation in homes and buildings all representing significant strides in sensible use of a depleting resource.

In spite of what has been done and in spite of the availability of foreign oil and the current gas glut in the U.S., it is my opinion that we are still very vulnerable to distrubances of the flow of oil from foreign sources.

The cry for total U.S. energy independence seems an outdated concept at this time. Likely it is unattainable and likely we are past the time in our history when we will ever again be self-sufficient in petroleum fuels. This is not to say that we should not try for as much energy sufficiency from our own sources as we can. Our security as a nation and continued growth and prosperity demands this of us.

The industry considers a balanced program of offshore leasing and development to mean a program which considers all aspects of the development process including minimizing impediments to orderly development yet giving full and reasonable consideration to environmental questions. The history of the NOIA companies in this area is one of cooperation and willingness to work with the various organizations having an interest in offshore development, including federal, state and local governments and of course, others such as environmental groups. The industry's experience with environmental and coastal zone management has been a good one in the Gulf of Mexico area and it is improving. Over 19,000 wells have been drilled on the OCS off Louisiana and countless more in

state waters. To be sure, there have been some mistakes made early on, but our record overall is a good one indicative of a concerned industry which has come of age and has worked hard to overcome those early problems through dialogues and by understanding the concerns of those opposing offshore development and through development of new equipment and methods. We have come a long way since the first offshore well was drilled in 1947.

I consider it significant that the President has appointed one of his trusted advisors and confidants to this very important post. I am assuming that, if confirmed, Judge Clark's administration of the Department will reflect a progressive Outer Continental Shelf leasing program which will allow for an orderly, balanced and expeditious development of energy resources offshore.

We are hopeful that the policies of the administration, with regard to the Department of the Interior's offshore leasing program, will be continued and that development of those leases will in turn lead to higher economic status for the country as a whole, and to better things for the service and support companies, and of course, for the people who operate the rigs, equipment, boats, etc.

I would urge that the need for a continued balanced development of our country's resources be borne in mind in this confirmation process.

Thank you for the opportunity to present this statement.

The CHAIRMAN. Gentlemen, your statements which you have prepared and filed with the committee will be made a part of the record, and you are invited to summarize the statement in whatever manner you prefer.

STATEMENT OF RALPH NISSEN, NATIONAL WATER RESOURCES ASSOCIATION AND ON BEHALF OF THE ASSOCIATION OF CALIFORNIA WATER AGENCIES

Mr. NISSEN. Chairman McClure, it is really a pleasure for me personally to have this opportunity today to represent the National Water Resources Association and the Association of California Water Agencies.

I have been involved in both organizations for a long time. I have known Bill Clark for a long time, and to me I still can't get used to even calling him judge. He is Bill from when I knew him.

Bill Clark, I had the experience of working with him when I was involved in the administration of then Governor Reagan in California, and I can vouch that he is an excellent administrator, that he is a very considerate person, and I feel that he would make an extremely able Secretary of the Interior.

I can say that I have only had the opportunity to listen to what portion of it went on here this morning. I didn't hear yesterday's testimony, but for those of the Senators that seemed to have some doubt about his abilities, I would be will to stick my neck on the line anywhere for Bill Clark.

[The prepared statement of Mr. Nissen follows:]

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Statement

of

Mr. Ralph Nissen

Representing

National Water Resources Association

and

Association of California Water Agencies

on the

Nomination of

Mr. William Clark

as

Secretary of the Interior

before the

Committee on Energy and Natural Resources
United States Senate

November 2, 1983

Suite 1202 N
955 L'Enfant Plaza, S.W.
Washington, D.C. 20024
202/488-0610

Statement
of the
National Water Resources Association
on the
Nomination
of
Mr. William Clark
as
Secretary of the Interior

The National Water Resources Association appreciates this opportunity to appear before your Committee in support of President Reagan's nomination of Mr. William Clark as Secretary of the Interior. This cabinet position which is of particular importance to the Western states, as well as the entire nation, must be held by an individual who recognizes the need for the wise management, development and conservation of our natural resources. The responsibilities of the Department of the Interior are significant to all Americans, involving our water, land and energy resources, many of our recreational opportunities, the conservation of our natural resource heritage, our economic development and our independence from reliance on foreign resources.

The National Water Resources Association (NWRA) is a nonprofit federation of associations and individuals primarily interested in the optimum development and use of water and land resources. NWRA has been actively concerned with the unique management problems of our resources in the West for over 50 years. The need for their wise development to support our

growing population and economic activity has been in the forefront of our efforts since the formation of the Association in 1932.

Our homes, factories and farms have water and energy today due in large part to the programs of the Department of the Interior. As many of these Western states have limited rainfall, except during the winter months, the water programs of the Department of the Interior are our lifeblood and make possible much of our nation's bountiful agriculture.

The Department of the Interior's policies and programs must be directed by a person in whom the President has full trust and confidence and who will implement the laws adopted by the Congress and the policy of the Administration.

Judge Clark comes to this cabinet appointment with a reputation of being a sound manager and administrator, a business executive who believes in solving problems and addressing conflicting viewpoints. His long association with the President and his awareness of President's views, assures that Judge Clark's management of the Department of the Interior will be consistent with the policies for which President Reagan was elected.

Some of our national publications have described the Department of the Interior as an obscure, secondary federal agency. It is not! It's responsibilities make it one of great importance to us all and it's activities affect each of us every day. Judge Clark will bring to this Department a familiarity with the land and what it means to us and how we can best husband our resources so that our American way of life can be assured far into the future.

We urge your approval of President Reagan's nomination of Mr. William Clark as Secretary of the Interior.

Statement
of the

Association of California Water Agencies

on the

Nomination

of

Mr. William Clark

as

Secretary of the Interior

The Association of California Water Agencies welcomes this opportunity to support the nomination of Mr. William Clark for the position of Secretary of the Interior.

The Association consists of almost 300 cities and other governmental units in California who furnish 90% of the surface waters presently used for urban and agricultural needs in the State. Like many other Western states, much of this water arises in the drainage areas of the public lands administered by the Department of the Interior so the management of the Department is of great importance to us.

California has become the most populous state in the nation and has the most productive agricultural economy through careful management of our water resources. Much of that is due to

projects developed by the Department of the Interior such as the Boulder Canyon and Central Valley Projects of the Bureau of Reclamation. In California, close to four million acres of irrigated farm land and more than fifteen million people depend to some degree for water developed from these projects.

Recent projections for population growth made by the State show a steady climb well into the next century. The 1980 census showed 23.7 million people living in California and that figure will grow to 31.4 million by the year 2000. The needs of this expanding population, only roughly half of which comes from immigration, will put additional demands on our available resources and require careful management of new development to support their needs.

Judge Clark, as a member of President Reagan's administration in California, is thoroughly aware of the importance of our natural resources in supporting our economy and their value in our leisure activities. His role in enabling then Governor Reagan to reach decisions with regard to major public issues is well known. His reputation as a deliberate, hard working executive who implemented the policies of that administration through analysis and discussion of differing viewpoints was sound.

These qualities will be of particular importance as the role of the Department of the Interior becomes of greater importance to all Americans over the next few years. Our water, food and energy needs will continue to grow and the need to provide for the orderly development of our resources in a manner compatible with our respect for our environment is essential. Judge Clark recognizes this role.

As Secretary of the Interior, he will have the confidence of the President and his many years of assisting the President and working with him in the development of his policies will result in that Department's following the dictates of the American people who voted overwhelmingly for this Administration.

We recommend your Committee's approval of the nomination of William Clark as Secretary of the Interior.

The CHAIRMAN. Thank you very much, Mr. Nissen. I appreciate your statement.

Mr. Kelly.

STATEMENT OF PAUL L. KELLY, VICE PRESIDENT, ROWAN CO. INC., ON BEHALF OF THE NATIONAL OCEAN INDUSTRIES ASSOCIATION

Mr. KELLY. Thank you, Mr. Chairman. The National Ocean Industries Association is also pleased to support the confirmation of Mr. Clark to be Secretary of the Interior.

NOIA's 450 member companies are located in 34 States and represent all facets of the offshore and ocean-oriented industries.

Our group is dedicated to the belief that ocean resources will play an increasingly important role in the continued growth and development of America. Offshore lands are an important part of the public domain over which the Secretary of the Interior has jurisdiction. We want a clean ocean for everyone to use.

We also want government policies which encourage the balanced multiple use of the marine environment. We are confident that modern technology, improved industry practices, and already-existing government laws and regulations make it possible to develop our ocean resources and at the same time protect our coastal environment.

We believe that Judge Clark's diverse experience as a rancher, lawyer, judge, and State government administrator, his experience as National Security Affairs Adviser at the White House, and his personal rapport with the President, all will serve him well as the top administrator and policymaker at the Department of the Interior.

We are also confident that as Secretary, Mr. Clark will listen to all points of view and maintain a balanced perspective as he carries out his special management responsibilities of preserving our Nation's scenic beauty and fostering the development of publicly owned mineral resources.

Mr. Chairman, you will note in my testimony that I make a reference to some important points that you made about critical natural resources in a hearing of this committee held in January 1981. You emphasized the point that we are a nation already dramatically dependent upon foreign sources of critical and strategic minerals. You expressed a hope that under this administration we would regain our motion and we would regain our direction and set our ship of state on course to renewed strength and renewed independence of foreign resources.

NOIA's field of expertise is resource development in the oceans, and we are pleased to report to you that in this field of endeavor during the past 3 years the ship of state has regained its motion and direction. In July 1982 the administration approved a new 5-year offshore leasing program which has moved to the forefront of our efforts to reduce America's dependency on foreign sources of petroleum.

In your remarks in 1981, Mr. Chairman, you also noted our dependence on foreign sources of critical and strategic minerals. Recent discoveries of polymetallic sulfides along deep ocean ridge

axes and cobalt crusts on sea mounts show that ocean exploration still holds many surprises for us, not the least of which is an exciting new potential domestic source of critical and strategic minerals.

Quite properly, President Reagan wants us to take an aggressive position with regard to deep sea mining; while the administration recognizes that the development is still years away, it plans to fund research and initiate environmental impact studies very soon in areas like the Juan de Fuca Ridge and Gorda Ridge off the coasts of Washington and Oregon. This is another important priority of U.S. ocean resource development, and NOIA member companies expect to contribute to this effort.

We must not be misled by the temporary oversupply of oil and gas. Our energy future is still one of a continuing shortage of domestic supply. Iran's threat to close the Straits of Hormuz in retaliation for French weapons deliveries to Iraq should send a clear message to the United States and to other industrialized Western nations. The message is that we are extremely vulnerable to supply disruptions. The Reagan administration recognizes the security implications of this and intends to do something about it.

In view of the questions that have been asked of Judge Clark in the hearings so far, we have emphasized in our testimony, emphasized some points that relate to the offshore petroleum program. I could summarize these with three points, Mr. Chairman.

One is that the concern expressed by those who think that we are offering vast amounts of ocean OCS acreage adjacent to our shores is unfounded. You will note in my testimony that while the administration began with a so-called billion acre program, that was merely the amount that was exposed to U.S. industry for an expression of interest.

If you look at the four lease sales, the first four lease sales that were held under the administration's 5-year program, you will notice that it shows a winnowing down of acreage in the process. Actually only 5.85 percent of acreage considered for leasing was offered.

The CHAIRMAN. Mr. Kelly, can you summarize?

Mr. KELLY. Yes. Just briefly, I also want to make the point that offshore development is the least risky energy development program from the standpoint of environmental risk.

I would also like to make a point that the Coastal States are involved in this program. The OCS Land Act Amendments of 1978 and the Coastal Zone Management Act of 1972 provide elaborate procedures and for them to be involved in the process there is negotiating going on in their deliberations, and the system is working as the facts will show.

Last, I would like to agree with Congressman Dannemeyer that recent polls taken on a national basis and also in States like Massachusetts and California where the perception is that opposition to offshore development is the highest, polls taken in those States show the vast majority of people in those States support offshore development and believe it could be accomplished while protecting the environment.

Thank you.

[The prepared statement of Mr. Kelly follows:]

STATEMENT OF PAUL L. KELLY

VICE PRESIDENT

ROWAN COMPANIES, INC.

ON BEHALF OF THE

NATIONAL OCEAN INDUSTRIES ASSOCIATION

HEARINGS BEFORE THE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ON THE

PROPOSED NOMINATION OF WILLIAM P. CLARK

TO BE SECRETARY OF THE INTERIOR

WASHINGTON, D.C.

NOVEMBER 2, 1983

The National Ocean Industries Association is pleased to support the confirmation of William P. Clark to be Secretary of the Interior. NOIA's 450 member companies are located in 34 states and represent all facets of the offshore and ocean-oriented industries. Our group is dedicated to the belief that ocean resources will play an increasingly important role in the continued growth and development of America.

Offshore lands are an important part of the public domain over which the Secretary of the Interior has jurisdiction. We want a clean ocean for everyone to use. We also want Government policies which encourage the balanced multiple use of the marine environment. We are confident that modern technology, improved industry practices and already existing government laws and regulations make it possible to develop our ocean resources and at the same time protect our coastal environment.

We believe that Judge Clark's diverse experience as a rancher, lawyer, judge and state government administrator, his experience as national security affairs advisor at the White House, and his personal rapport with the President, all will serve him well as the top administrator and policy maker at the Department of the Interior.

We are confident that as Secretary Mr. Clark will listen to all points of view and maintain a balanced perspective as he carries out his special management responsibilities of preserving our Nation's scenic beauty and fostering the development of publicly owned mineral resources.

Mr. Chairman, I attended a hearing of this Committee on January 7, 1981, at the very beginning of this Administration, when you made some important points about critical natural resources which are worthy of noting again today.

"In my view, we are a great and powerful Nation, with vast intellectual, natural, and spiritual resources. Yet we are a Nation literally and figuratively held hostage today by our crippling dependence on foreign oil and gas. We are also a Nation already dramatically dependent upon foreign sources for critical and strategic minerals.

The dependency which will only increase to more dramatic and more crippling dimensions in the decade ahead, given our current posture.

In many respects, our 'Ship of State' is like the fatal sailing ship described by the poet Gibran, in his famous passage of 'The Prophet.' Gibran wisely noted that the sailing ship must have a strong wind in the

sails and a steady hand on the rudder, for without the wind in the sails the ship is motionless, even with a steady hand on the rudder. Without a steady hand on the rudder, the ship is directionless, even with a strong wind.

America today, our 'Ship of State' today, in these critical resource areas is both motionless and directionless. We have lost that strong wind in our sails and we have lost that steady hand on the rudder. In large measure, our 'Ship of State' is adrift, locked in irons in a hostile sea.

We must regain our motion, and we must regain our direction. We must set our 'Ship of State' now on course to renewed strength and renewed independence of foreign resources.

Some would say, perhaps understandably, that I may be a dreamer, but I have a firm vision that in the next few years this Nation of ours will regain our motion; will regain our direction; and will regain our strength and independence in these resource areas."

Mr. Chairman, NOIA's field of expertise is resource development in the oceans, and we are pleased to report to you that in this field of endeavor during the past three years the "Ship of State" has regained its motion and direction.

In July 1982 the Administration approved a new Five-Year Offshore Leasing Program which has moved to the forefront of our efforts to reduce America's dependency on foreign sources of petroleum. Since that time we have held eight offshore lease sales which have resulted in the issuance of almost 1,500 new leases covering over 7 million acres. Moreover, these lease sales have generated bonus revenues of $8.4 billion for the American treasury. Oil and gas exploration is already under way in the new lease areas. It is important that we move rapidly now since long lead times from exploration to development mean that many wells being spudded today are searching for production that will not come on stream until the 1990s.

We must not be misled by the temporary over-supply of oil and gas. Our energy future is still one of a continuing shortage of domestic supply. Iran's threat to close the Strait of Hormuz in retaliation for French weapons deliveries to Iraq should send a clear message to the United States and other industrialized Western nations. We are still extremely vulnerable to supply disruptions. The Reagan Administration recognizes the security implications of continued reliance on imported oil and has made the development of our own energy resources a high national priority. Industry and Government estimates of future domestic oil and gas discoveries to be made offshore range from 59 percent of oil and 36 percent of gas to as high as 60 percent of total oil

and gas. Therefore, offshore petroleum development must continue to receive the emphasis it has during the first three years of the Administration. With his background in national security affairs, we are confident that Judge Clark, as Secretary of the Interior, will recognize the importance of this priority.

In your 1981 remarks, Senator McClure, you not only noted our dependence on foreign oil and gas, but also our dramatic dependence upon foreign sources for critical and strategic minerals. Recent discoveries of polymetallic sulfides along deep-ocean ridge axes and cobalt crusts on sea mounts show that ocean exploration still holds many surprises, not the lease of which is an exciting new potential domestic source of critical and strategic minerals. Quite properly, President Reagan wants us to take an aggressive position with regard to deep-sea mining. While the Administration recognizes that development is still years away, it plans to fund research and initiate environmental impact studies very soon in areas like the Juan de Fuca Ridge and Gorda Ridge off the coasts of Washington and Oregon. This is another important priority of U.S. ocean resource development, and NOIA member companies expect to contribute to this effort.

Much of the criticism leveled at America's offshore leasing program, while well intentioned, fails to understand

how the offshore leasing, exploration and development process works and how low the environmental risks associated with that process are in fact.

For example, one concern expressed by those who would slow the program down is that vast amounts of OCS acreage adjacent to our shores are about to be placed under lease and in production under the Administration's "area wide" offering concept. Critics repeatedly refer to a "billion acre program." An examination of the facts proves that vast amounts of offshore acreage are neither being offered or leased. This point is demonstrated clearly by the results of the first four "area wide" offerings held under the Five Year Plan:

Acres considered for leasing	245,290,000
Acres actually offered	114,390,000
Acreage leased	6,700,000
Percentage of offered acreage leased	5.85%
Percentage of considered acreage offered	2.73%

These figures illustrate two important facts:

(1) The amount of acreage actually put up for lease is much less than the acreage considered in the early planning stages. Indeed in the first four "area wide" offerings less than half--46.65%--of the considered acreage was actually included in the final notices of sale; and

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(2) Only a small fraction of the offered acreage is actually leased--in the first four offerings this was only 5.85%.

Thus, the OCS leasing process involves a winnowing down of acreage actually leased to levels which are reasonable by any standard.

What this tabulation cannot show, however, is another important fact: only a very small portion of the leased acreage will be proven to have commercially recoverable petroleum deposits and, thus, be subject to development activities. This is why we must examine broad areas in the first place.

These numbers put the magnitude of the leasing program in a realistic perspective. They also show that under the procedures provided in the OCS Lands Act the Federal Government does not "ride roughshod" over environmental concerns and the concerns of state governments and other interested parties. These procedures and the figures set forth above account for and reflect the accommodation between the states and the Interior Department which has resulted in a reduction of the amount of acreage actually offered.

Another of the realities we must keep in mind in keeping the OCS leasing program in proper perspective is

that our environmental laws and regulations require that federally prepared environmental impact statements assume worst case scenarios of damage to coastlines, fish and wildlife. This may be a valid approach from the standpoint of complete risk disclosure, but it does tend to perpetuate unrealistic public fears of disasters that likely will never occur.

While all currently available energy sources involve some level of environmental risk, the U.S. offshore program has a remarkably good environmental record. From 1956 through 1982, 20,995 wells were drilled and 6.0 billion barrels of oil and 58.2 trillion cubic feet of gas were produced in Federal waters. The Santa Barbara blowout in 1969 is the only major oilspill resulting in significant amounts of oil reaching shore. Since 1970, over 4 billion barrels of oil have been produced while only 691 barrels have been lost due to blowouts. During 1980 only two spills of more than 50 barrels occurred within U.S. Outer Continental Shelf waters from all types of operations, one of which involved 135 barrels of oil. During 1981, the maximum size of a spill was 83 barrels. The next largest spill was 50 barrels. In 1982, the two largest spills amounted to 86.3 barrels and 64 barrels. In the U.S. Coast Guard's 1982 annual report to Congress on the administration of the Offshore Oil Pollution Compensation Fund, established by Title III of the OCS Lands Act Amendments of 1978, it was

reported for the fourth consecutive year since the fund was established that no actual federal cleanup or removal activity costs were incurred and no damage claims were made against the Title III fund. On a worldwide basis, the National Academy of Sciences estimates that only slightly over one percent of all oil entering the world's oceans comes from offshore production.

The process of offshore leasing and development is pyramidic in structure, proceeding from broad-based planning to an increasingly narrow focus as actual development grows more imminent. The inclusion of an area in the Five-Year Program does not mean it will necessarily be leased, explored and developed. Congress has previously provided that those actions will be taken only after further review by the Interior Department, the states, and further opportunity for comment by all affected parties. The states have input into the process every step along the way--five-year planning, leasing of individual areas, exploration, development and production.

Under the OCS Lands Act Amendments of 1978 the states are furnished with information relating to OCS activities, and they participate in policy and planning decisions "to the extent consistent with the national interest." Section 18 of that Act also provides that there must be "an equitable sharing of development benefits and environmental risks

among the various regions." The Coastal Zone Management Act of 1978 (CZMA) provides that, "Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs."

The lengthy and elaborate consultation and coordination procedures between the states affected by OCS leasing and the Secretary of the Interior have resulted in the deletion of many tracts and the addition of lease stipulations at the request of state governors in several OCS sales. I have witnessed the system at work as one of the private members of the Interior Department's Outer Continental Shelf Policy Committee.

Six states out of 23 bordering on OCS planning areas went to court to challenge the Administration's Five-Year Leasing Plan. Their claims, along with all the claims of a dozen other plaintiffs, were dismissed by the U.S. Court of Appeals for the District of Columbia Circuit in California v. Watt decided on July 5, 1983. This decision upheld all aspects of the Administration's Five Year Program and is important reading for every member of this Committee.

What is often overlooked is the support the program has received among the rest of 23 coastal states who not only

approved of the original July 1982 plan but also today are expressing their concerns about lease sales to the Interior Department, routinely communicating with the Minerals Management Service, and negotiating tract deletions and lease stipulations in a business as usual manner. With both sides acting in good faith, there should be ample opportunity to resolve differences within the time frames provided in the Five-Year Plan. From my perspective as a member of the OCS Policy Committee observing first hand the interaction between the coastal states and the Federal Government, I am confident this is possible.

Because the Secretary must by law give consideration to the national interest, there are bound to be times when a given state feels compelled to challenge a secretarial decision further. The state also has the option of going to court. Under the CZMA the Secretary of Commerce is given the final say whether the activity is consistent with the objectives of the CZMA, and if not, whether it is otherwise necessary in the interest of national security. This is all part of the process provided by Congress to resolve conflicts, and it is working.

It must be remembered that we are talking about activities on federal land where ultimately the interests of the Nation are paramount. The same Ninth Circuit Court of Appeals which ruled in favor of the State of California in a decision

now on appeal to the Supreme Court of the United States that the Secretary of Interior could not proceed with OCS Lease Sale 53 until he made a determination that the proposed lease is consistent, "to the maximum extent practicable," with the California coastal zone management plan, also held that "the statute does not provide that a state's plan takes precedence when it would preclude the federal activity, or even that the federal activity must be as consistent with the plan as is possible. It only provides that the activity be consistent to the maximum extent practicable." The Court held that final authority "must reside in the Executive Branch of the federal government subject, of course, to such judicial review as is appropriate. To hold otherwise...weighs too lightly the interests of the Nation against that of a state."

Resolving differences between national and local interests is only one of the challenging and multifaceted responsibilities of the Secretary of the Interior. However, in the realm of natural resource development at this particular time in our history the resolution of such differences has become particularly important if we are to be successful in reducing our dependence on foreign oil and other strategic minerals. Returning to the passage which you quoted from Gibran's, "The Prophet," Mr. Chairman, you will recall that the author wisely noted that, in addition to a strong wind in the sails, a ship must have a steady hand at the rudder. We

are confident that Judge Clark can provide that steady hand and maintain the motion and direction of the Department of the Interior "with great balance and great sensitivity for all of the values we cherish so dearly in this great Nation."

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The CHAIRMAN. Mr. Kelly, thank you, and I really do apologize for the necessity of limiting your appearance and the time of witnesses on the stand after they have waited so patiently for so long to be here. That is a necessary part of the process I guess.

I do want to commend you, Mr. Kelly, for three or four of the points that you made, one with respect to what the offshore leasing program is and is not. I think that also applies in a different way to the onshore leasing of coal. A lot of acreage considered, less than half that acreage is offered, and less than 6 percent of that acreage, that which is offered, actually leased, so that you get down to less than 3 percent of that which was considered which is actually under lease. I think there is a misperception in the public as to what the results are.

Second, I would like to commend you for calling to our attention what we perhaps should have known with respect to the oil spills of offshore operations, and just to summarize very quickly, on page 8 of your statement you indicate that in 1980 there were only 2 spills of more than 50 barrels, one of which involved 135 barrels of oil. During 1981, the maximum size of the spill was 83 barrels, and the next largest was 50.

In 1982, the largest spills amounted to 86.3 and 64 barrels, and you noted that the Coast Guard's report to Congress on the administration of the offshore oil pollution compensation fund, they reported that for the fourth consecutive year since the fund was established, no actual Federal cleanup or removal activity costs were incurred and no damage claims were made against the title III funds.

I also want to highlight for the record the fact that the court in the case of *California* v. *Watt*, the Ninth Circuit Court of Appeals—excuse me. It was the U.S. Court of Appeals for the District of Columbia Circuit, upheld all aspects of the administration's 5-year program, and that the Ninth Circuit Court of Appeals has also looked at the offshore leasing programs and upheld the Federal primacy with respect to the plans that were then being challenged between the State and Federal Government.

Mr. KELLY. I think that is an extremely important point, Mr. Chairman. I think that some of the controversy that we have heard over the OCS program arises from the fact that some of the coastal States, a very small number of them, in their negotiations with the Interior Department are not able to always obtain 100 percent of what they want in the way of protections, but the Secretary of the Interior would not be doing his job if he did not look to our national interest, so there will always be a bargaining position, bargaining process that goes on, and by the very nature of that process neither side will get a 100 percent of what it intends.

The CHAIRMAN. Mr. Kelly, thank you very much. Mr. Nissen, I appreciate your comments because you come from a State from which Judge Clark comes, so you observed him as a part of the Reagan administration of that State and you were closely associated with him in the development, well, I should say in the implementation of the State's water plan.

Mr. NISSEN. Right.

The CHAIRMAN. And therefore had the occasion to know him personally and to work with him on a matter of great importance

within your State. Your personal testimony is thus I think very pertinent to the question of whether or not he is the kind of a man who ought to be in charge of the administration of a department that is so close to the interests of so many people in our country.

Mr. NISSEN. Mr. Chairman, just one brief word—I thank you for your consideration, and I would say that in my mind and in the mind of most of us in the Western States, there is no doubt about our feelings about this. I would just say one thing in that way, sir.

The National Water Resources Association had their annual convention last week and it was by authorization of the board of directors that I appear here today.

Thank you.

The CHAIRMAN. Thank you very much, gentlemen. I appreciate your testimony.

Let me call the next panel, and while they are coming forward express a personal dilemma that I have—Paul Pritchard, the National Parks and Conservation Association; Russ Peterson, president of the National Audubon Society; J. D. Hair, National Wildlife Federation; Alan Boyd, chairman of the board of trustees of the National Trust for Historic Preservation; John H. Davis, executive director of the National Recreation and Park Association.

I want to express my appreciation to each of you gentlemen in turn for your patience in waiting your opportunity to be heard, and I apologize for the necessity that is always the case of limiting the time of the presentation.

Of course, your entire statement will appear in the record and I must further apologize to you gentlemen and those who will follow you that we have just moved into consideration of the natural gas bill on the floor of the Senate, a matter which I must manage on behalf of this committee.

Therefore, I will turn the gavel over to Senator Hecht to preside until he is relieved in turn by some other members of the committee, but I do appreciate your appearance and your testimony and the time and the thought that has gone into the preparation of the testimony dealing as it does with very important issues.

I very much appreciate your willingness to take that time to appear and testify here today.

Mr. PRITCHARD. Thank you, Mr. Chairman.

Senator HECHT [presiding]. Thank you very much.

Mr. Pritchard, would you like to start?

STATEMENT OF PAUL C. PRITCHARD, PRESIDENT, NATIONAL PARKS & CONSERVATION ASSOCIATION

Mr. PRITCHARD. Thank you, Mr. Chairman. It is an honor for me to be able to be with you here today to discuss the confirmation and the testimony that we have heard regarding the nomination of William P. Clark as Secretary of the Interior.

I come before you today to represent not only the 45,000 members of our association, the National Parks & Conservation Association, but also on behalf of the 350 million visitors who visit our national parks and bring a great deal of resource and income to your State and to other States. We hope that we will express con-

cerns that we think are relevant to those visitors in the enjoyment of the parks.

May I say a bottom line position for us is that it is critical given the state of the appointment process during the midpoint of this administration that the Secretary be held accountable for specific responses to issues that you have raised and others have raised during the hearings here. We would encourage that those responses be the basis for the confirmation.

Senator CHAFEE. I wonder if you could pull the mike a little bit closer, maybe tip her up. We can't hear you. Thank you.

Mr. PRITCHARD. Thank you, sir. I would specifically like to discuss three issues which Senator Chafee also discussed this morning because I think they are the most relevant to us and I want to be very brief. I have also included a list of some 41 other park issues, sir, that I hope will be beneficial to this committee as you deliberate on this very important nomination, but let me begin by discussing the question of Land Acquisition Act moratorium which has occurred in the Department of Interior.

This has occurred under the guise of the land protection plans. These plans have been laid and in fact have provided a missed opportunity for the acquisition and protection of great resources within not only the national parks but other public lands of the State and local level also. We think this is a critical question that must be addressed and should be addressed by the Secretary before his appointment.

It is critical and important to note that Congress has continually pressed the administration to move forward with the acquisition problems. Unfortunately, the obligation rate of this particular administration has been less than 60 percent, one of the lowest in the history of the land and water conservation fund. This has been an example we think of something that would be a legacy of our time and our era in order not to pass on these important land resources that do occur throughout the park systems of the country.

We think it is critical, sir that Mr. Clark respond not only to the question of the appropriations level which which Congress authorized at 900 million and which the Congress has appropriated oftentimes at nearly that amount, but also the obligation rate as such.

A second critical issue which we think it is imperative that the Secretary-designee address is the protection of the natural and cultural resources within the national park system. In 1980, the Congress received from a very professional committee of the National Park Service a report on the state of the parks themselves. This report identifies some 4,000 threats. Every park system or unit in the system was identified as having some major threat except one of the 334 that I believe were in existence at that time. That report has been ignored for 2 years.

If there was a response, it was the park restoration and improvement management program. That program was a proposal by the Secretary and Congress appropriated $10 million. Unfortunately, sir, we would suggest that some of those funds are not properly used. In one instance, $1 million was used for restoration of the, or the construction of a swimming pool in a national park unit. This was not what Mr. Watt and the intent of the park restoration and improvement program was all about. It is obviously important to

note that the administration has opposed the National Park System Protection and Resources Management Act which passed the House by a vote of 321 to 82—the second time that very important piece of legislation has been approved by the Congress.

Regarding this issue then, sir, we would submit that it is imperative that the Secretary-designee express a response to the issue of the protection of the natural and cultural resources in the national parks not only by the appropriate expenditure of that $10 million, but also we believe an additional request before the Congress that he should submit for an additional $10 million, and we think it is imperative that he support the request for the National Park Systems and Management Protection Act.

Sir, that concludes my testimony. I appreciate the opportunity to be here. We think it is important that these issues be addressed and we look forward to being of any assistance we can to this Committee in your deliberations.

Thank you, sir.

[The prepared statement of Mr. Pritchard follows:]

NPCA

STATEMENT OF PAUL C. PRITCHARD
PRESIDENT
NATIONAL PARKS & CONSERVATION ASSOCIATION

before

THE COMMITTEE ON ENERGY & NATURAL RESOURCES
ON THE NOMINATION OF WILLIAM C. CLARK TO BE
SECRETARY OF INTERIOR

November 2, 1983

Mr. Chairman and other distinguished Members of the Committee, I am Paul C. Pritchard, President of the National Parks & Conservation Association. For 65 years, NPCA has served as a citizens' voice for the national parks. On behalf of our 45,000 members nationwide, I appreciate the opportunity to testify before you today on the nomination of William C. Clark as Secretary of Interior.

We believe that anyone nominated for the post of Interior Secretary should be asked, and should respond to a number of broad policy questions involving natural resource policy matters which come before the Department and should be judged on both his substantive response to these policy matters and on the manner in which he proposes to deal with the diverse constituency of interests which are involved in the Interior Department's work.

There are many important policy issues concerning our National Park System and related issues that the new Secretary must resolve. The most pressing of these are listed in our attachment to this statement. We recommend that the manner in which Mr. Clark proposes to deal with these issues and his specific policy pronouncements determine whether he is confirmed.

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A few of these issues illustrate the types of commitments and decisions Mr. Clark must make. Upon assuming office, Mr. Watt instituted a moratorium on all land acquisition in the National Park System except for court awards. Fortunately, Congress overturned that moratorium. Mr. Watt, in an accompanying action, requested totally inadequate levels for the Land and Water Conservation Fund (LWCF) -- $40 million in FY 1982, $70 million in FY 1983 and $65 million in FY 1984. Once again, Congress overturned this request and appropriated substantially more in each of these fiscal years. Then Mr. Watt and his political appointees overseeing the National Park Service significantly slowed down the rate of obligation of funds appropriated by Congress. Congress has continued to criticize the Administration for this policy and the obligation rate, while still totally unacceptable, is at last increasing modestly.

During the two and one-half years while this battle took place, lands inside units of the National Park System that should have been preserved were lost to development, many landowners who wanted and needed to sell their lands could not do so, and other lands increased in price and will eventually cost the taxpayer more to acquire.

Mr. Clark must decide on future requests for LWCF appropriations and deal with the problems of the totally inadequate obligation rates. If he were to assure this Committee that the requests will increase substantially in the coming years starting with FY 1985 and that he will order that funds already appropriated by Congress be spent in a timely fashion, then we would feel more confident that he will make the necessary departures from the failed policies of Secretary Watt.

A second major policy issue concerns the natural and cultural resources in the National Park System that the Secretary has the responsibility for protecting. In 1980, at the request of Congress, the National Park Service completed the State of the Parks report which identified over 4,000 resource problems in our national parks. These problems were largely ignored by Mr. Watt. While his Park

Restoration and Improvement Program provided some funding for the restoration of some historic buildings, it ignored the vast majority of serious resource problems in both natural and cultural units of the National Park System. In FY 1983, Congress added $10 million dollars to the Park Service budget noting:

> This will permit the Service to focus attention on preservation of park cultural and natural resources - in many cases the reason a park was established - which the Secretary has ignored with his Park Restoration and Improvement Program (PRIP).

In addition, Secretary Watt opposed the National Park System Protection and Resource Management Act which recently passed the House overwhelmingly. By committing himself to support the National Park System Protection and Resource Management Act and by committing himself to an addition of $10 million per year to the NPS base budget to deal with the pressing resource problems facing the national parks, Mr. Clark would signal not only his commitment and interest in the parks but his willingness to depart from the harmful policies of his predecessor.

When Mr. Watt came before this Committee for confirmation hearings, we did not oppose him. We did raise a number of concerns and issues that a new Secretary would have to deal with. Many of the issues we raised at that time later became major points of conflict with Secretary Watt and his appointees. Many of those issues remain with us today and are listed in an attachment to this statement. We urge this Committee to require Mr. Clark to express his viewpoints on these issues clearly and assure itself that Mr. Clark will change those policies of Mr. Watt that were not in the best interests of the National Park System and other lands under the responsibility of the Department of the Interior.

While the policies of Secretary Watt have caused significant and unnecessary problems for the National Park System, the decisions and day-to-day management of sub-cabinet level appointees have also caused major and serious negative effects. When Mr. Ruckelshaus took over at EPA he quickly brought in new managers to improve the

administration of that agency. Similarly, Mr. Clark should replace those who are intent on carrying out Mr. Watt's failed policies.

At no time in recent history, and possibly since the time of the establishment of the National Park Service, has morale among its employees been so low. I base that conclusion on numerous discussions that members of my staff and I have had with Park Service professionals around the country. This morale problem, of course, saps the effectiveness of the agency. The problem exists because the professionals believe, and rightly so, that the leadership in the Department is not really concerned with protecting the natural and cultural resources the parks were established to preserve. By changing Mr. Watt's park policies and by replacing those appointees who are not willing to change with him, Mr. Clark can do much to reestablish the morale and effectiveness of the National Park Service.

Immediately following this statement is a list of the major national park policy issues that Mr. Clark must face. We urge you to question him closely on these issues. Also attached to this statement is a report prepared by NPCA documenting many of the most significant problems caused by Mr. Watt and his appointees. I would be happy to respond to any questions.

National Park System Issues Requiring Action
by Secretary-Designate Clark

Internal Management Issues

1. Final recodification of the entire NPS Code of Federal Regulations has been delayed for more than a full year by Interior officials because of opposition to elimination of commercial trapping in several NPS units. The entire package of regulations should be finalized without further delay.

2. Outside of Alaska, the NPS general management planning process for park units has been virtually halted, even though over 50 units have no approved plan, and the plan for nearly that many more is over 20 years old. Fully fund and support the NPS general management planning process and set a target for completing all plans.

3. At present, only 5% of the NPS annual budget is allocated to natural resource management. This low priority has in part resulted in countless resource threats in parks. Substantially increase the portion of NPS budget allocated to natural resource management by adding $10 million to the NPS base each year until the base funding level is at least triple the current level.

4. Initiate a thorough review of the allocation of funds under the Park Restoration and Improvement Program to determine adherence to the stated goals of the project. Some abuses have occurred such as $1 million being spent on a swimming pool and bathhouse complex for a concession-run facility in Olympic National Park.

5. Halt the so-called "Career Enhancement" program for NPS Senior Executive Service employees. NPS senior managers in Washington and regional offices have been removed from the NPS against their wishes with the result of further demoralizing the Service and diluting its professional integrity.

6. Oppose passage of S.49, a bill to redesignate 12 million acres of national parks in Alaska to allow sport hunting. The Alaska Lands Act was a pro-hunting bill which generously provided for the needs of sport hunting in Alaska.

7. Oppose efforts to open NPS units to commerical trapping. NPS, with concurrence of the Solicitor's office has concluded that 11 units of the System are illegally permitting commercial trapping, and have moved to halt this activity. At present Departmental personnel are preventing NPS from implementing this policy.

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Internal Management Issues (cont.)

8. Oppose efforts of Assistant Secretary Arnett to change NPS regulations to permit park visitors to carry loaded firearms in certain units of the System. Implementation of this policy would present a grave danger both to other visitors and to park wildlife.

9. Regulations approved by the previous Secretary opened the three old parks in Alaska, Denali, Katmai, and Glacier Bay, to the new, more relaxed restrictions on motorized access to parks contained in the Alaska Lands Act. Mr. Clark should seek to remove the three old Alaska parks from application of the new access provisions, since these areas have been closed to this activity for more than 50 years.

10. Land exchanges in Alaska should not trade away existing park system land, especially involving land in one park system unit proposed to be traded for non-federal land in another park system unit. Land exchanges, while generally a good tool, should not weaken protection of one park in order to improve protection for another. Specifically, the proposed exchange involving lands in Denali National Park proposed to be traded away to acquire State lands in Wrangell St. Elias National Park should not be completed, but other, non-NPS lands, should be offered the State.

11. The recent proposal to build a large highway bridge and paved road through the heart of Mammoth Cave National Park crossing the Green River, should be withdrawn as unnecessary, inappropriate, and uneconomical.

Protection of Park Resources

12. Remove all restrictions currently being imposed on the NPS against buying land for existing units of the System. Request adequate funds to be appropriated from Congress to purchase inholdings in parks. A goal should be set of obligating at least 90% of the amount appropriated by Congress.

13. Support for legislation like the National Park System Protection and Resources Management Act (H.R.2379) to give the Service some means of resolving issues threatening park resources, and new direction for managing natural and cultural resources in the parks.

14. Develop a policy for ensuring that Interior Department leasing activities on land adjacent to park system units is compatible with protection of park resources. This policy should address oil and gas, tar sands, oil shale, geothermal and coal resources.

Protection of Park Resources (cont.)

15. Support inclusion of park protection language in the pending amendments to the Geothermal Steam Act, to protect thermal features of parks from adjacent geothermal drilling.

16. Support strengthening provisions of the Clean Air Act which will assure continued protection of Class I national parks from deteriorating air quality, and reduced visibility. Support redesignation of selected national monuments to Class I status.

17. Withdraw the support of the Interior Department from any proposal to locate a high-level nuclear waste disposal facility adjacent to Canyonlands National Park, Utah.

18. Approve NPS initiation of a second comprehensive State of the Parks report.

19. For over 18 months, the BLM has resisted completing a land exchange mandated in legislation expanding the Chaco Culture National Historic Park, New Mexico. Appropriate lands have been identified by the energy company concerned, approved by NPS, and gained the support of the State and concerned conservation organizations, yet BLM resists. Order BLM to complete this exchange.

20. Recent changes in regulations implementing the Surface Mining Act to redefine "valid existing rights" will allow strip mining within the boundaries of certain parks where coal deposits exist and where land has not yet been acquired, such as the New River Gorge National River, West Virginia, and Chaco Culture National Historic Park, New Mexico. Every effort must be made to ensure that surface mining does not occur within the boundaries of any unit of the National Park System, since such activity would be contrary to both the Surface Mining Act and the statutes establishing each unit of the National Park System.

21. Everglades National Park is the single most threatened park in the System due to many years of disruption of the natural flow of freshwater through the park. This damage can be reversed by endorsing Florida Governor Graham's "Save Our Everglades" program, approving acquisition of lands in the upper watershed of the park, and rechanneling the Kissimmee River to its natural watercourse. The Secretary-designate should do so.

22. During the current coal leasing moratorium, specific attention should be paid to proposed leases in North Dakota near Theodore

Protection of Park Resources (cont.)

Roosevelt National Park (Ft. Union sale) and in New Mexico near Chaco National Historic Park (San Juan basin sale) regarding adverse effects of these two coal leases on adjacent parks. These sales should be postponed if any significant adverse effects are likely to occur.

23. One of the most threatened of park wildlife species, and surely the most visible, is the grizzly bear in the greater Yellowstone ecosystem. In addition to stepping up law enforcement to prevent poaching around the park, which is currently underway, the Secretary should take action where necessary to halt adjacent grazing, mining, and drilling when it threatens the grizzly's ability to survive in this ecosystem.

24. Initiate a process to comprehensively review the adequacy of the boundaries of all units of the System, and where appropriate, recommend any needed changes to better enable the Service to fully manage and protect park resources.

25. The previous Secretary dropped from further consideration as wilderness study areas a number of BLM areas contiguous with certain national park system units, including 75,000 acres in 31 BLM WSAs contiguous to 12 units of the National Park System. After study, these areas should be added to the contiguous park units if judged to qualify.

26. A massive environmentally damaging and uneconomic tar sands mining project is currently being considered by the Department within Glen Canyon National Recreation Area, adjacent to Canyonlands National Park. The Secretary should oppose development of this tar sand deposit, at least until other tar sand deposits are utilized and the technology perfected in less environmentally sensitive areas.

27. Uphold the decision by the previous Administration to withdraw a portion of the Alton Hills coal field adjacent to Bryce Canyon National Park in order to preserve the viewshed of the park and maintain its pristine air quality.

28. Seek addition of that portion of the Dixie National Forest which lies contiguous with the eastern boundary of Bryce Canyon National Park, which the Forest Service has identified as excess and unmanageable.

SPECIAL CULTURAL RESOURCES INITIATIVE

29. The cultural, historic, and archeological resources of the nation which are the Department's responsibility, have always been relegeted to low priority. The new Secretary should consider a broad new initiative to identify, classify, and protect this co-equal part of our national heritage.

30. Complete the national historic landmark theme studies.

31. Develop and fund a comprehensive research program on the proper treatment of historic features in parks.

32. Restart the historic park boundary study previously authorized by Congress but halted early in this Administartion, to judge the adequacy of current park boundaries for "preserving the historic scene."

33. Expand and implement training programs for managers of historic parks, and assign adequately trained personnel to cultural units of the System.

34. Develop and train preservation maintenance teams to ensure that the best qualified personnel are handling historic structures.

35. Develop a comprehensive program with target dates to complete historic resource studies and archeological surveys.

36. Develop a comprehensive program to catalogue and adequately store curatorial materials within units of the System.

37. Provide full funding support for the Historic Preservation Fund.

Planning for the Future of the National Park System

38. In its entire history, there has never been a comprehensive long-range plan for the future of the National Park System. The new Secretary should initiate such a planning effort.

39. Revitalize the national natural landmarks program, which has languished for the past several years. Especially urge completion of the physiographic region theme studies, and expedite review and decision on landmark nominations and designations. Comprehensively review existing landmarks for threats to their intrgrity and devise mitigation plans accordingly.

40. Restart the new areas study program to professionally identify areas which are qualified for inclusion in the National Park System.

41. Systematically evaluate new strategies both for protecting existing park resources and for affording protection to new types of areas for the future. A comprehensive program for protecting "areas of national interest" should be initiated and coordinated by the Interior Department, but should thoroughly involve state, local and private interests.

National Park Policy Under

James Watt

> The results of this study indicate that no parks of the System are immune to external and internal threats, and that these threats are causing significant and demonstrable damage. There is no question but that these threats will continue to degrade and destroy irreplaceable park resources until such time as mitigation measures are implemented. In many cases, this degradation or loss of resources is irreversible. It represents a sacrifice by a public that, for the most part, in unaware that such a price is being paid.

This conclusion, drawn from the 1980 State of the Parks Report to Congress, by the National Park Service, clearly demonstrates that our parks are in serious trouble. Ronald Reagan's former Secretary of Interior, James Watt, termed himself a "good steward" of the National Park System and pointed to his efforts to improve physical facilities in the parks so often that it appeared that this was the cornerstone of his environmental record. Yet, while focusing on the physical facilities, the Secretary paid no meaningful attention to the parks' natural resources and insufficient attention to the cultural resources. These resources are the reasons the parks were established.

In establishing the National Park Service in 1916, Congress stated that the purpose of the National Park System "... is to conserve the scenery and the natural and historic objects and the wild life therein to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." (emphasis added) This is a very strong and important mandate and one which was not carried out bv Secretary Watt.

Moreover, the Secretary's development and energy policies significantly increase the probability that these resources will be faced with increasing threats long after he has left office. Thus, while the man-made facilities will be improved as a result of the former Secretary's policies, the more critical natural and cultural resources will be impaired for the future - just the opposite of what Congress intended - unless the new Secretary reverses many important policies.

Our heritage as a people and a nation, as Americans, is inextricably bound to our land. The two are inseparable. This land is our source of wealth providing an abundance of natural beauty and mystery. Ours is a curious relationship; we both revere the land and recklessly exploit it. As Americans we reveal ourselves in the way we treat our land whether we struggle against it, selfishly squander its treasures, or show it the utmost respect.

Recognizing the need to preserve and to protect for the benefit of future generations the precious jewels of our heritage, Congress saw fit to establish the first national park, Yellowstone, in 1872. To date 334 park units have been established covering 79 million acres of forests and mountains, canyonlands, lakes and rivers. Areas have been set aside as great natural resources and as cultural and historical resources as well. Civil War battlefields and the homes of great American are invaluable parts of the National Park System too. We, as a nation , are constantly changing and this is reflected by the introduction of urban parks and recreation areas into the System. Overall, the National Park System encompasses our true heritage, land which is held in trust for the common benefit of all Americans. But who is responsible for that public land? What authority is charged with the task of administering and managing our national parks and seashores, our recreation and wilderness areas?

> "So we have a good team. It's a team of people that are committed to bring about change because we want to involve the private sector in managing our resource space. We want to cut down excessive government. We want to eliminate those areas which are degrading to the National Park System... We will use the budget system to be the excuse to make major policy changes."

Thus spoke Secretary of Interior James G. Watt, steward of the vast majority of America's Federal lands, in his speech addressing the national park concessioners on March 9, 1981. Watt clearly articulated his philosophy regarding the Federal lands he had been charged with administering, especially those lands in the National Park System. If any doubts concerning Watt's intentions had somehow

managed to linger on, Secretary Watt indisputably resolved them in his frank and revealing statements.

Priding himself as and efficient manager and a man of action, James Watt assumed his responsibilities as Secretary of the Interior, only shortly thereafter to state:

> "I am put (here) to make decisions and I will make them quickly and that is so that I can make the corrections to all the mistakes I make. I make lots of mistakes, 'cause I make a lot of decisions. But we're in a hurry and we're willing to take risks."

In his brazen statement Secretary Watt failed to grasp the significance of his decisions, which, if later proven to be mistakes, are often not correctable. Wise stewardship of Federal lands cannot be expected when the Secretary of the Interior's policy-making strategy is based on rapid action rather than the careful deliberation of possible consequences, and then rendering sound decisions. James Watt became Interior Secretary at a time of growing concern regarding threats faced by the national parks. In 1979, Congress had requested that the National Park Service prepare a thoroughly researched report which would list specific threats, both internal and external to the parks, in detail. The Park Service complied with the request and submitted "The State of the Parks" report to Congress in May of 1980. Again at the request of Congress, the report was followed in January of 1981 by the "Prevention/Mitigation Plan," and by "Threats to Cultural Resources" published in April 1982. Significantly, these reports served to focus much needed public attention on grave park problems and delivered what was considered by many park professionals and concerned citizens a mandate for action. Regretfully, this mandate has been ignored and in some cases deliberately frustrated by the Reagan Administration through the action or inaction of Interior Secretary Watt and his appointees.

The number of threats listed is prodigious - 4,345 in total - a figure further qualified by the report's recognition that 75% of those threats were inadequately documented "...especially those associated with air and water pollution and visitor related activities," required further investigation. Servicewide, internal and external threats were found to be about equally divided. Notably

60% of the parks experienced scenic resource threats, 45% air quality threats, and more than 40% indicated threats to mammal, plant, and freshwater resources.

The report concluded that external threats warranted special attention, but noted that the National Park Service lacks authority to respond to threats occurring outside park unit boundaries. As for the prevention and mitigation of internal threats, the report called for the improvement and expansion of the Park Service's research and resource management capabilities.

> "Simply stated, the current levels of science and resource management activities are completely inadequate to cope effectively with the broad spectrum of threats and problems which have been identified and discussed in this report."

With adequate funding and personnel, strong leadership, and innovative management, the Park Service ascertained that internal threats could be dealt with. Unfortunately, funding for resource management and science is not adequate and key resource management personnel have been transferred, leadership demoralized and management stagnated by Secretary Watt's policies.

The Reagan Administration's response to the report can, at best, be described as inexcusable neglect. Secretary Watt's failure to address the most ominous threats identified and his calculated disregard for the report as a whole sent an unmistakable message to the National Park Service and the American public - the Administration does not consider the destruction of the natural and cultural resources of the National Park System to be an issue worthy of priority attention. While the report found that only 8% of the total threats reported affect operational features, Secretary Watt chose to focus exclusively on upgrading and improving park facilities (in the form of his much ballyhooed "Park Restoration and Improvement Program") thereby leaving 92% of the threats inadequately addressed by high level policy-makers of the Reagan Administration's Interior Department. Secretary Watt, in spite of the volume of "threats" information, told Director of the National Park Service Russ Dickenson, "You're on your own," with regard to policy action to mitigate <u>external</u> threats.

The responsibility for protecting our national parks from external threats - urban encroachment, energy development, air and water pollution, and soil erosion - falls to the Interior Department, and rightly so. Only the Federal government can be expected to act solely in the interests of the nation as a whole, thus it is without surprise that Reagan's "new federalism" has proven itself as not merely inappropriate but a disastrous policy for the National Park System. State and local governments frequently lack funds to complement efficient park management. Moreover, a major transfer of responsibility from Federal to state and local governments is tremendously complicated by the unequal distribution of park units across the nation and the occurence of park units encompassing land in more than one state.

The Reagan Administration has failed to provide both the dynamic leadership necessary to enforce existing legislation and to aggressively confront the national parks crisis with proposals for needed protective legislation, funding, and personnel for the National Park Service. The failure to comprehensively address the threats identified in the "State of the Parks" report serves as a case model of abrogation of responsibility and neglect of the national parks. Remaining true to policy, the Administration likewise failed to begin implementation of the prevention/mitigation plan or to follow-up with publication of a second "State of the Parks" report.

In spite of the Reagan Administration response or perhaps because of it, Representatives John Seiberling (D-OH) and Doug Bereuter (R-NB) introduced The National Park Protection and Resources Management Act of 1982. In essence, the legislation would serve to focus attention on the most pressing threats faced by the national parks and provide for enhanced communication and cooperation between Federal Agencies and Congress and between other Federal agencies and the National Park Service.

The Reagan Administration, led by Secretary Watt, has aggressively opposed the legislation arguing that the bill misplaces priorities, priorities he believes to be the "improvement" of park facilities, principally roads, buildings and sewer systems.

As veteran environmental writer and national park defender Michael Frome observes, "Secretary Watt doesn't quite look at parks as natural sanctuaries, but as places that can be improved with mechanical contrivances - like the rest of the world around him."

Virtually inseparable from the issue of protecting National Park System resources is the need to ensure that the National Park Service remains an agency of high integrity, professionalism, and morale. In fact, without an agency of the Park Service's caliber, it is highly unlikely that our heritage contained in the national parks could be preserved as required by law.

Interior Secretary Watt has failed to grasp the fundamental purpose of several of the agencies under his charge, among them the National Park Service. In his efforts to accomplish the Reagan administration's goals of a reduction in the size and cost of government and stimulation of the economy, Watt has sought to redefine the mission of the Park Service at the risk of sacrificing our national parks. The goals of personnel and cost reduction have superceded the fundamental goals of the Park Service in making the proper management and protection decisions for the lands under its care virtually impossible. The politicization of the Service, the use of the budget to change policy, the undermining of the professionalism which characterized the Service for over 60 years, and several structural reorganizations have severely impaired the Park Service's effectiveness and crushed the morale of Park Service professionals in the process.

From its inception, the National Park Service has been characterized by its professionalism and by the dynamic quality of its leaders. Men such as Stephen T. Mather, Horace Albright, Newton Drury and George Hartzog nurtured the Park System, encouraged its growth, and ensured its development into a system without equal. Today our national parks and our management of those lands serve as models for the world community.

Such dynamic and inspired leadership has traditionally been supported by a tightly knit group of Park Service personnel, unfailingly committed to the parks and the ideals which motivated their establishment. The importance of such a group of individuals

cannot be overemphasized. Current Director of the Park Service, Russell Dickenson, recently stated:

> "The one thing we cannot afford to compromise is the quality of our personnel. The Park Service has come to be known as much for the dedication, knowledge and enthusiasm of its staff as for the quality of park resources."

And yet, the quality of Park Service personnel has been compromised. Secretary Watt's abuse of the Senior Executive Service, political appointments in the Service, emphasis on financial performance in personnel evaluations, and attempts to invest the private sector with park management authority has made a mockery of Dickenson's charge. Instead of supporting dedication and encouraging respect, Secretary Watt's leadership has promoted mistrust within the Service and the Department and crushed the morale and idealism of career professionals. The following statements of one Park Service superintendent attests to the failure of Secretary Watt's leadership and the frustration of professional personnel:

> "Advice is coming from people with no committments, only to themselves. They don't know the history of the organization. They don't know the history of the parks. They don't get out into the parks. They don't really feel what the problems are... There's no catalyst."

The emasculation of the National Park Service is being accomplished largely through the politicization of the agency by Secretary Watt. Shortly after assuming office the Interior Secretary made clear his intentions (March 9, 1981):

> "Let's clean up the advisory groups. Let's get good advisors that want us to be successful, and let's check with every group. We check with Congressmen, we check with Senators, we check with special interest groups, we check with the National Academy of Sciences, and I would hope we check with the Republican National Committee."
>
> "... We then decided we'd hire the very best Republican that would bring professional leadership to the National Park Service and we hired Russ Dickenson... Russ will try to pretend that he was really a career employee, but he's not. He's committed to what President Reagan wants to do and what I want to do with the Department and we're going to do it."

Among Watt's questionable appointments are G. Ray Arnett, Assistant

Secretary over NPS, a petroleum geologist who founded a trophy hunter's lobbying group, the Wildlife Legislative Fund; Dan Smith, a lobbyist for the National Rifle Association appointed as NPS Assistant Director for Legislative Affairs; and Ric Davidge, formerly Managing Director of the National Inholders Association, as a Special Assistant to Arnett supervising NPS land acquisition and now Special Assistant to the Assistant Secretary stationed in Alaska.

The Civil Service Reform Act of 1976 (CSRA), sponsored by House Interior Committee Chariman Morris K. Udall specifically provided:

> "...for an executive system which is guided by public interest and free from improper political interference; and to appoint career executives to fill SES positions to the extent practicable, consistent with the effective and efficient implementation of agency policies and responsibilities."

In spite of Congressional intent, provisions of the Act have been misconstrued in order to facilitate and justify Secretary Watt's purge of top Park Service professionals. Under the guise of a "career enhancement program" and with the use of the Senior Executive Service (SES) provisions of the CSRA Watt's policies are wreaking havoc in the upper levels of the Park Service.

The purpose and objectives of Watt's "career enhancement" program were explicitly stated in an Interior Department news release of December 1982. According to the release, the program was "to encourage executive mobility." The release further stated:

> "Watt expects many of the Department's SES to choose to relocate to other Interior Bureaus by the end of 1983."

> "Mobility will provide managers with the opportunity to broaden their management capabilities and create more balanced resource management perspectives."

In fact, none of the 18 NPS SES personnel had any desire to leave the Service. In addition, the program created "mobility targets" in order to force immediate relocations. Deadlines and quotas were established as follows: by March 31, 1983 each agency was to select 5-33%; and by September 30, 1983 25-33%. The National Park Service had 18 SES eligibles when the program was initiated. In compliance with the established quotas, five of those were required to relocate to other bureaus within the Department before October 1983. The designers of the program appear to have

assumed that many serior National Park Service careerists would be eager to relocate and that such transfers would be beneficial for some agencies within the Department especially NPS, a rather rash and unjustified assumption.

Perversion of the Senior Executive Service Act and the implementation of the "career enhancement program" has caused much confusion and frustration throughout the ranks of the Service. Relocation of career Park Service leaders to other bureaus within the Interior Department, coupled with disruptive reshuffling of personnel within the Service, has intensified the confusion and further diminished the already waning morale of employees. Secretary Watt's actions serve as self-indictments. Clearly, his manipulation of the Civil Service Reform Act has been with the hope of replacing Park Service professionals with others more amenable to his policies. The so-called "career enhancement" of John E. Cook testifies to Secretary Watt's unscrupulous attempt to destroy Park Service leadership, his unwavering loyalty to the Administration's anti-government philosophy, and his staunch support of private industry interests.

In January of 1983, the Department of Interior announced that John E. Cook, then serving as Director of the Park Service's Alaska Region, was to be made superintendent of Great Smoky Mountain National Park. For Cook, a ranking senior executive, the transfer was undeniably a demotion and not the promotion which Interior maintained it to be. The superintendency at Great Smoky Mountain National Park was not a senior executive position. At that time, the position was upgraded to an SES position so that Cook could be transferred without his approval. Cook remains the only park superintendent with senior executive status.

Prior to his transfer, Cook publicly stated his desire to remain in Alaska where he had been working since 1977. Cook, a seasoned and distinguished professional of twenty-five years, had been known for his hard work and adherence to the NPS mission during his career. Foremost among those was the battle over the Alaska National Interest Land Conservation Act (ANILCA). After thorough debate and extensive compromise, ANILCA, which provided for the unprecedented addition of 40 million acres of Alaskan lands to the

National Park System, was enacted in 1980. Cook's performance as director during its initial implementation combined with his prudent management of the newly enlarged parks won him the acclaim of Alaska conservationists, the disfavor of Secretary Watt, and the wrath of Alaska's Congressional delegation. Cook's management philosophy frequently clashed with that of Alaskan politicians resulting in instrumental involvement in his transfer.

Transferred along with Cook were John Chapman and Douglas Warnock. Warnock, then Deputy Director of the Park Service in Alaska was relocated to Redwood National Park. Chapman, then superintendent of Glacier Bay National Park was relocated to the Park Service's Denver office. Both men had roused the ire of Alaskan government officials; Warnock by his strong support of Cook's policies; Chapman by his decision to limit commercial boat traffic in Glacier Bay in order to protect humpback whales.

Another calculated relocation was that of Ira Hutchinson, the Deputy Director of the Park Service who was a career employee. Hutchinson's transfer to the Interior Secretary's office leaves the Park Service with a new deputy director, Mary Lou Grier, a non-career political appointee.

The plight of Leonard A. Frank perhaps best illustrates the politicization of the Park Service, a politicization so prevalent it threatens to destroy the integrity and the ethical fiber of the organization. Early in 1982 the position of superintendent of Fire Island National Seashore became vacant and applications for replacements were solicited. Among those was one filed by Leonard Frank. Frank, a Park Service professional of twenty-one years, had painstakenly developed his management skills in hopes of moving up the career ladder. In spite of such qualifications, Frank's application was rejected in favor of a former Heritage Conservation and Recreation Service employee lacking comparable experience and skills, but who had been working on the staff of several political appointees of the Administration. The appointment reflected political considerations and lack of genuine interest in the proper management and protection

of the seashore. In a letter addressed to President Reagan, Frank forcefully expresses his disappointment and his concern for a Park Service besieged by such political appointees:

> "The extension of the political process into the ranks of Superintendent is a violation of the career ladder and goals of hundreds of National Park Service employees. The people of the United States gain nothing from the placement of incompetent, untrained, and unqualified persons into positions that demand skilled attention to fragile natural and cultural resources. Such a process is another example of small time politicians playing Fantasy Island and doing something to the people instead of for them... The particular position at Fire Island is no more or less severe than dozens of other National Park Service Superintendencies. I am somewhat an expert witness in this field having served in six parks, the Washington office, and the North Atlantic Regional office in positions ranging from an entrance level ranger to that of Superintendent. Political placements at the GS-14 level of Superintendents causes severe morale problems at a time when Federal employment is not the most popular. How can we maintain top level park areas with unskilled non-career managers: We can't!"

Manipulation of the Civil Service Reform Act and politically advantageous "promotions" and appointments represent a mere sampling of the strategies which Secretary Watt used to emasculate the Park Service and to entrench development policies and loyalty to the Administration. Another recent addition to his assortment of tactics was the launching of a pro-Administration, pro-Interior Department public relations blitz in early 1983. In the form of a slide show, complete with a colorful array of photographs and a choicely worded narration often verging on propaganda, Watt took his case to the public through the inappropriate use of Federal bureaus at his command. A memorandum from Secretary Watt to his Assistant Secretaries expressly mandated participation in the project:

> "Essentially this requires you to identify appropriate field spokespersons, disseminate copies of the annual report, slide show and script, give a minimum number of presentations per bureau per month, and respond to me on your progress."

One of the several bureaus being thus exploited is the National Park Service. Not only is such use of personnel an unjustifiable misuse of staff time, energy and creativity, but the subjection of Park Service professionals to political manipulation is an unconscionable outrage.

Although Secretary Watt contends that his actions have promoted the efficient functioning of the National Park Service, those actions have instead severely impaired its ability to preserve and to protect the parks. One example of serious personnel deficiency is found in the "State of the Parks" report which drew attention to the appalling lack of trained scientists and resource managers in the Service:

> "There are a total of about 300 personnel Servicewide (3.2% of the total Park Service staff) in the combined science and resource management fields. Approximately 20% of these personnel do not have college degrees, and a substantial number of others work primarily on operational activities within their principal role as park rangers or park superintendents. Simply stated, the current levels of science and resource management activities are completely inadequate to cope effectively with the broad spectrum of threats and problems which have been identified..."

Despite this clear finding, support for resource management and scientific personnel has been totally inadequate under Secretary Watt. Many of the best qualified in these fields have been removed as far as possible from positions in which they could influence Service policy by transfers ordered by Watt's political appointees.

Under Secretary Watt's leadership, the ideals which inspired the creation of the first national parks and which have been faithfully upheld by the Park Service are being cast aside in favor of economic considerations. The conservation and preservation of natural, cultural, and historical resources has been deliberately shoved to the bottom rung on the ladder of priorities while improvement of "operational" facilities such as sewers, roads, and water fountains, has assumed paramount importance. To state it quite bluntly, a tremendous amount of pressure to perform well financially is now felt by park managers throughout the Service. Each park superintendent must divert precious time, energy and dwindling funds to administering his park with an eye towards establishing a greater degree of financial self-sufficiency. The overemphasis of economic goals and compromise of ideals has caused repid disillusionment of park managers. With their evaluations now based in large part on financial performance, Superintendents and other park authorities are compelled to increase use of private sector contracted services and actively campaign for donations.

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A January 1982 memo from Secretary Watt to Park Service Director Dickenson attests to the pressure to which park managers are being subjected.

> "Implement quickly for regional directors, park superintendents, and all other appropriate employees performance standards that take account of their success in making each park more sulf-sustaining and base Senior Executive Service and merit pay actions in part on financial performance."

In order to make their parks more self-sustaining, many Park Superintendents have begun use of "gift" catalogues as well as soliciting the aid of private organizations. The National Park Service has been forced into competition with nonprofit groups for charity support, foundation grants, and other available funds. Although the Service has always accepted donations, such active campaigning for financial support creates the potential for the misuse of private sector aid. When combined with the new emphasis on contracted services, corruption of the system increases in likelihood as one possible consequence of Secretary Watt's economic directive. In fact, for a period of several months in 1982, financial performance was the only evaluation standard by which NPS career professionals were required to be judged.

Secretary Watt's efforts to radically alter the National Park System have not been limited to attempts to manipulate agency personnel but have extended to the types of areas comprising the System itself.

In his now infamous speech before the Conference of National Park Concessioners on March 9, 1981, Secretary Watt stated that "I do not believe that the national park system should run urban parks. I have strong views on that." These strong views were subsequently translated into a memo sent by Assistant Secretary G. Ray Arnett to Park Service Director Dickenson in April asking for a history of the Park Service's opposition to the creation of national recreation areas, lakeshores and seashores. The memo was most notable in that it directed the Park Service to focus its research on five areas: Santa Monica Mountains NRA (CA), Cuyahoga Valley NRA (OH), Fire

Island National Seashore (NY), Indiana Dunes National Lakeshore (IN), and Sleeping Bear Dunes National Lakeshore (MI). With the exception of Sleeping Bear Dunes, these areas are all located in or near major urban areas.

The National Parks & Conservation Association released the memo to the press and criticized it for being a hit list of areas the Administration wanted to get rid of. Interior Department spokesmen denied this but could not explain why the five areas were chosen. Later, Secretary Watt claimed that the five areas were listed because there were allegations of illegalities in the acquisition of land at these five areas. He ordered the Department's Inspector General to investigate the charges which were subsequently and not surprisingly found to be groundless. Secretary Watt never could explain why the memo didn't mention these charges but rather called for an analysis of the Park Service's objections, if any, to the creation of these areas. Many knowledgeable people concluded that the alleged wrongdoing was used in a vain attempt to explain away an embarrassing memo, intended to justify Administration proposals for deleting the areas from the System.

Within weeks of the release of the first memo, yet another one from Assistant Secretary Arnett to Park Service Director Dickenson surfaced. This time, the Assistant Secretary wanted to know the procedure for turning over the Cuyahoga Valley NRA to the State of Ohio. He also wanted to talk with the Superintendent of the Santa Monica Mountains NRA to discuss "... his assistance in an accelerated divestiture program." In a hearing before Representative Sidney Yates, Chariman of the Subcommittee on Interior Appropriations, Mr. Arnett acknowledged that he wrote the memo but claimed he never sent it. Subsequent testimony by Director Dickenson revealed that Mr. Arnett was not accurate, and that the memo was sent but withdrawn almost immediately.

After fairly lengthy discussion of this issue, Secretary Watt told Representative Yates that there was no hit list. Apparently, that word did not make it to the Inspector General's office, for in October of 1982, the Park Service was notified of a general audit to

assess the feasibility of transferring the operation responsibility for certain of these small scale operations to states, local governments, nonprofit organizations, or other qualified entities. Once again, NPCA released the memo to the press. Doug Baldwin, Watt's Press Secretary, told the Los Angeles Times that Watt killed the study upon learning of it with the comment: "This memo is an attempt to build a little hit list. We're not in that business."

However, deauthorization is not an idea that dies easily. In the fall of 1982, the Office of Management and Budget proposed, as part of the upcoming FY 1984 budget, a commission to study deauthorization of newer parks or recreation areas where large tracts of land remain to be purchased. After public protest the proposal did not find its way into the FY 1984 budget. After so many repeated attempts it is impossible to tell whether the Administration has given up on the idea of deauthorization or is just waiting for a more opportune time.

Looking back on the first threat to the five national seashores, lakeshores and recreation areas, Charlotte Read, Executive Director of the Save the Dunes Council in Indiana vividly remembers the fight:

> "It's unfortunate that after 15 years we were faced with fighting the battle to save the Indiana Dunes all over again. But in the end, good came out of it by mobilizing the Council and the Council's friends."

Fortunately, in part because of the millions of visitors that the threatened parks serve each year, they have many friends that will rise to their defense.

Although Secretary Watt was completely unsuccessful in his efforts to have some parks removed from the System, he was somewhat successful in using the NPS budget to carry out his broader policy goals.

"We will use the budget system to be the excuse to make major policy decisions." With that statement, James Watt revealed his true motives shortly after taking office, He recommended significant changes in the National Park Service budget, basically calling for large increases in the construction budget and, to a lesser extent, the maintenance budget, and cutting off all funds for land acquisition except to pay court awards.

The rationale offered by Watt was that the parks were a national disgrace and in a shameful condition. To prove his point, he cited a 1980 General Accounting Office (GAO) report that concluded that the park system had a backlog of health and safety projects estimated at $1.6 billion. Watt argued that good stewardship requires that you "take care of what you have (i.e. existing facilities) before you reach out for more" (i.e. acquire more land). Watt placed the blame for the alleged safety problems on the previous Administration and Congress.

The facts do not bear out Secretary Watt's allegations. Several conservation organizations and members of Congress questioned the validity of the GAO report. Representative Sidney R. Yates, Chairman of the House Subcommittee on Interior Appropriations, asked the Park Service to do its own estimate which came in around $600 million, far below GAO's estimate. Secretary Watt was present at the hearing when the Park Service reported its findings to Representative Yates. In 1983, GAO released a follow-up report that the National Park Service found a five-year need of $538 million.

Even though Secretary Watt knew of the Park Service estimate and agreed in a June 6, 1982 hearing with Representative Yates that Congress was not remiss in taking care of the parks, he continued to use the inaccurate GAO estimate and to blame Congress. Finally, Representative Yates felt compelled to set the record straight on the floor of the House in March, 1983:

> "... his (Watt's) statements before the Udall Committee on Interior and Insular Affairs on January 26, 1983, were so outrageous that I felt I had to take this time to set the record straight. Any resemblance of Mr. Watt's testimony to the truth on that day is purely coincidental."

Mr. Yates then presented the figures documenting that Secretary Watt's allegations were completely inaccurate. Since Secretary Watt knew of the Park Service's own estimate and how Congress had increased the overall Park Service budget, it is unclear why he continued to use inaccurate facts and allegations.

The one part of the Park Service budget that had been cut in the later years of the Carter Administration was the construction budget. In the first two years of his Administration, President Carter called for and Congress appropriated a huge increase in the Park Service's construction budget. However, the Park Service was unable to spend a large proportion of that money and was carrying over $100 million from one fiscal year to the next. As a result, the Administration and Congress reduced the amount of new construction dollars in FY 1981 so that the Park Service could reduce the growing backlog of unspent funds.

The other major aspect of Watt's proposed budget was to cut off money for land acquisition in existing NPS units, as well as opposing any additions to the System. Especially during the latter 1970s, Congress established new parks and expanded the boundaries of existing ones. Secretary Watt was proposing to not buy land inside park boundaries. The only major exception would be to pay owners whose cases the courts had finally decided. Watt argued that with the economic problems facing the country, there simply was not enough money to fix up the parks and buy land at the same time. He made this argument even though that land could be developed, clearcut or suffer some other adverse use that would ruin its park values.

With several hundred thousand acres of critical but yet unprotected lands within park boundaries and with visitation and public use of parks increasing, Congress decided that it would be irresponsibl to cut off land acquisition funding. On average, for FYs 1982-84 it decided to increase funding by 100% over that requested by the Secreta Clearly, Congress believed that progress must continue in acquiring and thus protecting land within the boundaries of already established parks.

Although Congress appropriated sizable increases, the Administration decided to thwart the will of Congress by greatly decreasing the rate of expenditure of land acquisition funds. In FY 1982, only 51% of that fiscal year's funding was spent. That was the lowest rate in several years. In an attempt to find out the causes for this poor performance, Representative John Seiberling, Chairman of the House Subcommittee on Public Lands and National Parks, held a series of five oversight hearings. Largely as the result of these hearing the Park Service began to obligate the available funding more rapidly. Even so, during FY 1983 only 60% of the available funds were spent.

Secretary Watt depicted the battle of the Park Service budget in terms of stewardship. He said he was going to be a good steward of the parks even if Congress hasn't been. However, his definition of stewardship did not extend to protecting private land within park boundaries from development or other adverse uses. It also did not extend to increasing in any meaningful way the amount of funding available to correct the many natural resources problems facing the parks. The 1980 State of the Parks report identified thousands of known and suspected problems. In addition, threats to parks in the west increased as a result of the Administration's energy leasing programs. In recognition of the severe problems and Secretary Watt's indifference toward them, Congress appropriated an additional $10 million in FY 1983. The House report noted:

> "This will permit the Service to focus attention on preservation of park cultural and natural resources - in many cases the reason a park was established - which the Secretary has ignored with his Park Restoration and Improvement Program (PRIP)."

Clearly, the Park System needs additional funds to fix up the deteriorated facilities, many of which date back to Civilian Conservation Corps era of the 1930s. But the resources in the parks, including the land base yet to be acquired, must also be protected. Stewardship is not limited to fixing facilities. More importantly, it involves the protection of the air, water, land wildlife and numerous other park resources that are being increasingly threatened by a wide variety of human activities.

While many of Secretary Watt's policy initiatives cover matters of government-wide importance, few people are fully aware of his broad influences. Much of this influencewas derived from his chairmanship of President Reagan's "Cabinet Council on Natural Resources and the Environment." From this position Watt played a majorrole in policy decisions in the Departments of Energy and Agriculture, and over agencies as diverse as the U.S. Forest Service, the Army Corps of Engineers, and the Environmental Protectis Agency.

Perhaps most important among these has been his key role in shaping Administration policy on air pollution. Unfortunately, Secretary Watt utterlyfailed to understand - or didn't care about - the adverse impacts of his policy on air quality in the highly scenic national parks.

The Grand Canyon, often considered the mecca of the National Park System, is the long sought end of a pilgrimage made by millions of Americans each year. Homage paid this natural wonder is equalled by few other sites in the National Park System except, perhaps, Old Faithful in Yellowstone. Former President Teddy Roosevelt himself a great defender of the national parks, once pronounced: "The Grand Canyon is the one place that all Americans should see." The visitor who is fortunate enough to travel to this reknowned and revered canyon expects to be greeted with the awesome beauty of the landscape yet chances are good that he will return home bitterly disappointed. More than 100 days a year, the visibility in Grand Canyon National Park is significantly impaired, thus the visitor may find himself straining to catch even the briefest glimpse of the canyon's other ri

Unfortunately, the Grand Canyon is not alone in its visual bligh Air pollutants emitted at urban and industrial centers from southern California to the midwestern states threaten to dramatically degrade the air quality in the "Golden Circle" of national parks in the southwest, though no unit of the Park System is immune.

Explicitly stated in the establishing legislation for virtually all units of the park system is a provision for the protection of the scenic resources of that area, whether they be natural, historic, or cultural. Tolerance of any significant deterioration of the air quality in such protected areas means abandonment of the ideals of the national park system and an unconscionable disregard for the rights of the future generations who will inherit park lands.

The Clean Air Act, passed more than a decade ago, and its subsequent amendments of 1977, contain specific tenets addressing the problem of air pollution faced by the national parks. Sections of the Act providing for "the prevention of significant deterioration" and guidelines for visibility regulations including the innovative concept of "integral vistas," (park views important to the visitor's experience of the area) are specifically designed for park protection. But legislation without adequate enforcement is a futile gesture. The Reagan Administration's visibility enforcement record is appalling. Although regulations for visibility protection pursuant to the Clean Air Act went into effect in 1980, the Administration refused to implement them; then proposed to weaken those same regulations when ignoring them became impossible: and lastly proposed to abolish the concept of integral vistas altogether.

The Clean Air Act provides for three air quality classifications - Class I, II, and III - no significant deterioration of air quality being permitted in Class I areas and a much greater allowance made for Class II areas. In accordance with the amendments authorized in 1977, 48 units of the national park system received Class I designation and a special group of Class II areas was created, "including national parks and wilderness areas created after 1977, smaller parks and wilderness areas, and other Federal lands of special significance." Reclassification of those areas to Class III designation was prohibited while reclassification to Class I was strongly encouraged pending review of each area At that time Secretary of the Interior Cecil D. Andrus identified 44 park units

which merited reclassification. To date, none of those areas has been given Class I status and Secretary Watt aggressively opposed increased air quality protection for parks.

The unconscionable irresponsibility of the Reagan Administration toward park air quality protection was carried out by Secretary Watt in his leadership of the Interior Department. Active pursuance of a policy aimed at easing regulations affecting energy development led to a precedent setting interpretation of the Clean Air Act at Theodore Roosevelt National Park. In 1982, Secretary Watt waived the Class I designation of the park in order to allow increased pollutant emissions from energy industries in the area. Although Secretary Watt was acting within the law, environmental groups contend that the Park Service's finding of no adverse impact on the park was inaccurate. The Park Service failed to assess the impact of an increase in sulfate emissions which are primarily accountable for impaired visibility. A public comment period was granted by the Department of the Interior, but the Department later determined that it was under no legal obligation to solicit or provide for such comment. Statements by Interior officials indicated that citizens may be denied the right to comment on waivers and waivers may be granted without prior public notification.

In September, 1983, Secretary Watt proceeded with a major coal lease sale on Federal lands surrounding Theodore Roosevelt National Park despite a statement by the National Park Service that,

> "predicted exposure levels are known to cause effects on sensitive plant species found in the park. The class I 24-hour SO_2 (sulfur dioxide) increment at Theodore Roosevelt National Park has been consumed without any additional coal leasing. Therefore, development of these leases will require a 'certification of no adverse impact' from the federal land manager... It should be noted that, based on available data, such a certification may be difficult to obtain, thus creating uncertainty regarding the viability of these tracts."

Secretary Watt failed to protect our national parks from a wide array of threats, foremost among those being energy development. Watt professly favors <u>use</u> versus preservation, and advocated greater freedom and more incentives for energy development on public lands by the private sector.

In a speech to the Independent Petroleum Association of America, Secretary Watt frankly stated his policy regarding energy development:

> "Our economic and our national security were in jeopardy because of failure to develop America's abundant natural resources... I have been taking the padlock off the resources owned by all Americans, and I have been inviting industry to examine these resources carefully to determine where we have energy and minerals vital to our national good health. And where these resources can be developed without undue environmental consequences, we are giving industry the green light to move ahead."

Striving to accomplish the goals of the Reagan Administration, Secretary Watt supported plans to lease land adjacent to many parks for oil, natural gas, and minerals - especially coal - development. The parks of southern Utah, uniquely endowed with landscapes of weather-beaten canyons, cliffs, colorful mesas, and desolate badlands are particularly threatened by coal development. The conflict concerning the Alton Coal Field presents a classic case of failure to protect parks when protection impedes energy development.

Bordering Bryce Canyon National Park, the Alton Hills are included in the spectacular panorama viewed from Yovimpa Point, a major scenic highlight within the park. During the Carter Administration, Secretary Andrus ruled a major portion of the Alton Coal Field unsuitable for stripmining on grounds that the magnificent vista from Yovimpa Point, an integral part of the park, would be desecrated. Such an action was well within the authority of the Secretary according to a provision in the Surface Mining Act, empowering him with the authority to declare any public land unsuitable for stripmining. Quite predictably, the two companies which had planned to mine the entire coal field filed suit against

the Interior Department. The case was still unresolved when James Watt replaced Secretary Andrus. The change in Administration reflected a change in policy toward energy development. Dramatically departing from Andrus' previous ruling, Secretary Watt reviewed the case and tried to rescind the order prohibiting stripmining. However, the case was not dismissed. Conservation groups intervened arguing that the former ban should be upheld. The case is still pending.

Surrounded by mesas and badlands, an environment often dismissed as too arid and desolate to be of worth, is Chaco Canyon National Historic Park. The unusual beauty of the landscape lies in the silence of its expansive spaces, the colors - ochres and browns, lavender, mauve, and rose - streaked across the mesas and reflected in the sky at sunset, and the mosaic of dry river beds weaving their way across the land. Aside from the scenic and ecological value of the area, Chaco Canyon houses the central remains of the Chacoan Civilization, a people with a highly sophisiticated society who inhabited the area from 500 B.C. until roughly 1300 A.D. The wealth of archeological treasures which have survived is invaluable. Commented Walt Herriman, superintendent of Chaco Canyon

> "I'm trying to persuade them that this is America's heritage. This is not only the American Indians' heritage, this is the heritage of our country. And in this, we can't know ourselves or appreciate ourselves if we don't understand and show a sense of appreciation in protecting these ruins for all time to come."

Like many of its western counterparts, Chaco Canyon is now threatened by the drive for increased energy development. As companies have begun to exploit the abundant resources of the San Juan Basin, irrevocable damage to outlying archeological sites not yet included in the park has occurred; the exploitation of coal resources on land adjacent to the park portends destruction of the satellite communities not to mention degradation of the pristine air in the park. Even land within the park boundaries, supposedly inviolate, is threatened. When additions to the park were made in 1978, privately owned mineral rights were not acquired. However, the legislation which expanded the park included a provision requiring that the mineral rights in the park be exchanged out for BLM

lands elsewhere of similar value. A land exchange was proposed by the Santa Fe Energy Company, which owned the rights, to the BLM and the Park Service. Santa Fe identified coal rich BLM land adjacent to lands it already owns in New Mexico which it wished to obtain in trade, thus enabling the Park Service to acquire its mineral rights in the park. In 1982, the details of the exchange were agreed upon by the National Park Service and conservationists, but the exchange itself has yet to occur. BLM, under Director Robert Burford, a Reagan appointee, now refuses to relinquish the land specified in the exchange.

Oil, gas, and minerals are not the only energy resources being developed at the expense of the national parks. In 1981 the Bureau of Reclamation announced a project to expand the power of the hydroelectric facilities at Glen Canyon dam on the Colorado River. As proposed, the plan called for the addition of two turbines which would increase the baseload generating power of the existing facility from 1,000 megawatts to 1,250 megawatts. The project would have a significant detrimental impact on Grand Canyon National Park downstream from the dam: erosion along the Colorado River would be accelerated, animal and plant communities would be disrupted, and popular raft trips would be jeopardized or eliminated.

Early in 1982, the new turbine project was halted due to prohibitive costs. Nevertheless, the Bureau of Reclamation decided to proceed with utilization of the existing facilities for "peaking power," a process producing rapidly fluctuating high and low flows downstream. The additional generators would have increased high water flow from 28,000 to 40,000 cubic feet/second; "peaking power" will increase the high flow to more than 33,000 cubic feet persecond - not a significant difference. The Bureau of Reclamation determined that adverse environmental effects downstream would be minimal. Under pressure from conservation organizations, the Bureau of Reclamation did agree to conduct a two-year study of the projects impact on the river environment. Unfortunately, the study will be conducted simultaneously with the "peaking power" conversion and will not be documented before the project is completed.

Although interest in geothermal sources of energy is not new, only within the last decade have technological innovations and the increasing cost of traditional energy resources made geothermal energy economically exploitable. Now the geothermal industry can be listed among the increasing group of energy developers encroaching on the borders of the national parks. To date, parks specifically threatened by such encroachment include: Lassen Volcanic National Park, California; Hawaii Volcanoes National Park, Hawaii; Crater Lake National Park, Oregon; and Yellowstone National Park, Wyoming. In each case, development on adjacent land threatens to destroy important resources protected within park boundaries. Lack of sufficient information concerning the intricate subterranean connections between natural geothermal systems as well as the complexities of the geological structures which house them remains the major problem with development. Research may be costly and time consuming contends industry but scientists and conservation groups argue that such research is necessary. Numerous examples exist throughout the world where exploitation of a geothermal resource in one area has caused, inadvertantly, the destruction of natural wonders, namely geysers, in another. Currently, Yellowstone National Park is threatened by the development of Island Park Geothermal Area where 200 lease applications have been filed. As to the fate of Old Faithful, a former Assistant Interior Secretary in the Carter Administration commented:

> "We do not know how much of a connection, if any, there is between the proposed lease areas, and the thermal resources inside the park... Unless geothermal exploration and development is very carefully planned, monitored, and controlled, irreversible damage to the geothermal regime at Yellowstone is a distinct possibility."

Under consideration by Secretary Watt, are leases for underground geothermal resources on land adjacent to Yellowstone and Lassen Volcanic National Parks.

Amendments to the Geothermal Steam Act of 1970 are currently being debated in Congress which could provide needed park protection. The changes being sought by several environmental organizations would provide a much greater degree of protection for the parks. The

Reagan Administration has not only adamantly opposed such changes contending that energy development would be unduly and unnecessarily hindered, but has proposed that no park protection provisions be included.

The Department of Energy's proposal to construct a high-level nuclear waste disposal site in Davis Canyon, a mere 4,000 feet from Canyonlands National Park, Utah, epitomizes the irresponsibility and neglect of the Reagan Administration. The Nuclear Waste Disposal Act, passed in 1982, instructs the President to identify the nation's first waste disposal site by December of 1985 followed by identification of a second site by December of 1987. Under intense pressure from the Reagan Administration to speed up those deadlines, DOE appears ready to select the Gibson salt dome site, situated in Davis Canyon, yet DOE has refused to prepare an environmental impact statement on the impacts of testing for the site and then actually constructing and maintaining it. Furthermore, DOE has not thoroughly investigated and prepared environmental assessments of alternate salt, granite and basalt geologic formations as potential sites.

Under the National Environmental Policy Act, the Department of Energy should prepare a full environmental impact statement; however, DOE has argued that an environmental assessment is sufficient thus making a full environmental impact statement unwarranted. Several environmental organizations have alleged that DOE is attempting to circumvent the EIS process. In 1982, the draft DOE environmental assessment was published in which DOE determined that preliminary testing and drilling activities would have no adverse environmental effects. Utah state officials have charged that the document was inadequate and presented false information. Nonetheless, the Bureau of Land Management, which manages the Davis Canyon land, approved the assessment. No further plans to research and publish a full EIS were made. In response, five conservation organizations filed an appeal in 1983 to force BLM to prepare a full EIS.

With regard to a nuclear waste dump next to Canyonlands National Park, Secretary Watt stated:

> "I've never flinched from being exposed to truth or science or fact. If we can drill a well to help us understand that, we ought to do it. Let's go for fact and establish a scientific basis for a decision. So I think I would encourage drilling in Canyonlands."

Such a statement evinces little concern for the degradation of the park and environs which would inevitably occur. Testing for the site alone would entail upgrading and building new roads, extensive borehole drilling and digging of test pits, and laying out half a dozen seismic reflection lines (to determine subsurface structure of the earth), three of which are proposed to be extended into the national park. If Davis Canyon is selected, two of the three alternatives would include a railroad to transport waste, which would run within half a mile of the park for some distance; every major scenic vista would be marred by sight of the waste facility or rail line; and noise from the facility would permeate the park - to name only a few of the foreseeable adverse effects.

Although Secretary Watt persisted in stating that he would not support exploitation of energy resources within the parks, his 1981 order that 4 National Park System units in the west be opened to hard rock mining seems to indicate otherwise. In response to the Combined Hydrocarbon Leasing Act of 1981, several energy industries have seized the opportunity to convert their oil and gas leases to tar sands leases before the November 1983 deadline. The Altex Corporation and Santa Fe Energy have both made application to convert leases (to tar sand) which they hold in the Tar Sands Triangle (in Glen Canyon National Recreation Area) and the Circle Cliffs (next to Capitol Reef National Park). If leases are granted and development follows, among numerous other adverse impacts, sulfur emissions for the tar sands retorting process will cause significant visibility deterioration and other air pollution problems for Canyonlands, Capitol Reef, and Grand Canyon national parks as well as within Glen Canyon National Recreation Area. Secretary Watt designated eleven "special tar sands areas," two of which are within Glen Canyon National Recreation Area in spite of statements issued by the Park Service in their general management plan indicating that the area is intended to serve as a scenic and ecological buffer zone for Canyonlands National Park.

Current conflicts involving mining in national parks and on adjacent lands can be traced back as far as the Mining Act of 1872 and the 1920 Mineral Leasing Act which dealt with "hardrock"

and "softrock" mining respectively. Since the passage of such legislation, more than 300 units of the Park System have been established while oil, gas, and mineral development have increased dramatically. Theoretically, mining in national parks is prohibited; however, problems arise when private interests own valid existing rights to minerals and lands inside park boundaries.

Congress recognized the pressing need for protective legislation explicitly addressing the issue of mining in the parks, thus enacting the Mining in the Parks Act of 1976. Among other provisions, parks were no longer subject to the Mining Law of 1872 - with the exception of valid existing claims; the Secretary of Interior was instructed to evaluate claims for possible acquisition; and mining on Park Service lands was restricted by a mandate "to prevent or minimize damage to the environment and other resource value areas." In view of increased coal development and the prevalent use of strip-mining, Congress passed the Surface Mining Control and Reclamation Act the following year. Addressed to "softrock" rather than "hardrock" mining which was covered by the 1976 legislation, SMCRA expressly prohibited coal strip-mining in national parks excepting preestablished valid existing rights.

Despite such extensive legislation, national parks remain dangerously threatened by mining operations. In 1981, Interior Secretary Watt ordered the Office of Surface Mining to rewrite the Federal regulations concerning strip-mining with the professed objective of eliminating superfluous red tape and decreasing the cost of compliance for coal producers. Of the 400 proposed changes in the regulations, those specifically affecting national parks include: revision of the valid existing rights and public park definition, and restriction of citizens' rights which would sharply curtail participation in the regulatory process. If the definition of a valid existing right is relaxed as proposed, 1.7 million acres of land in 26 park units would be open to potential mining. These rule changes proposed by OSM and supported by Secretary Watt would allow companies possessing coal rights but not mining permits in parks to acquire the necessary permits enabling them to mine. Such regulation changes

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are in direct conflict with protection of park resources. Most seriously threatened are the New River Gorge National River (WV) and the Obed Wild River (TN).

Other changes in regulations portend ominously for citizen rights. According to the original regulations, citizens could petition the Secretary of Interior to declare land unsuitable for strip-mining. An eligible citizen was defined as "any person having an interest which is or may be adversely affected." As revised, petitioning would be strictly limited to those having established property rights in the area, thereby effectively diminishing public participation in the regulatory process. Citizens would be denied a voice in the administration of land owned by all Americans.

In 1982, OSM published a draft of the revised regulations making them available for public comment. Conservation organizations and the National Park Service itself voiced strong objections to the new regulations. In a memorandum from the Associate Director for Science and Technology of NPS to the Director OSM, the Park Service explicitely stated its views:

> "...it is essential that the permitting authority for surface coal mining operations within NPS lands not obtain the consent of the (NPS) regional director prior to the issuance of the permit... NPS favors retention of the current definition of who is or may be adversely affected by surface coal mining... NPS believes that the purpose of the petition process... is to prevent adverse effects on significant resources and resource values, including those in units of the National Park System... NPS favors retention of the current definition of public park... Neither of the proposed definitions for "public park" would include scenic conservation easements..."

Also having the potential for major impact on wildlife of the national parks are efforts to reverse Federal regulations concerning trapping and hunting. The controversy arose when the National Park Service suddenly realized that the legislation establishing some NPS areas did not definitively state that hunting and trapping were to be permitted. In 1982, those regulations were rewritten to include provisions prohibiting hunting and trapping in park areas where the law did not explicitly authorize it.

> "In units of the NPS where hunting and trapping activities are not authorized by the enabling legislation for a park area, resource management for purposes of wildlife use and control is accomplished only pursuant to the authority of 16 USC 3 which authorizes the reduction of animal populations determined to be detrimental to the use of the area and its statutory values."

In an effort to weaken the proposed regulations, Assistant Secretary of Interior, Ray Arnett, and Deputy Director of the National Park Service, Mary Lou Grier (both Reagan political appointees), delayed approval of the regulations from June of 1982 until June of 1983. In testimony before the House Subcommittee on Public Lands and National Parks, Arnett revealed his opposition to the trapping closure and supported more lenient trapping in parks. Although approved, implementation of the regulations has been delayed by Arnett in hopes that action by Congress will reverse the closures.

Attempts to commercially develop national parks has not been limited by their designation. Everglades National Park is one such area. Designated a World Heritage Site, also reknowned as the first national park established to preserve a complete ecosystem, Everglades National Park was threatened by commercial fishing and proposals to open part of the park to tomato farming.

Prior to Secretary Watt's appointment, these issues, though highly controversial, had, for the most part, been resolved. The private inholdings, which had been intensively farmed for tomatoes, were acquired by the Park Service in the early 1970s and a five-year total phase-out of commercial fishing had commenced

Highly responsive to special commercial interests and evincing little concern for the protection of the Everglades, Secretary Watt began reconsideration of the aforementioned issues early in 1981. First, the commercial fishing issues were reopened and Watt's staff urged the Justice Department to settle a lawsuit out-of-court by agreeing to halt the commercial fishing phase-out. The Park Service was also instructed to evaluate the leasing potential of the inholdings which had been formerly farmed, back to the tomato farmers.

A massive outpouring of citizen opposition to the Reagan Administration's proposed action on both the commercial fishing and inholding issues, coupled with an increasingly rare firm stand against such changes by NPS professionals thwarted the Administration's efforts and they were dropped. Nevertheless, the positions of Watt and his appointees clearly demonstrates how they favor those wanting special uses in the parks over the responsibility to preserve park resources for everyone including future generations.

Frequently facing a difficult task, Park Service professionals must strike a balance between enhancement of the visitors' park experience and protection of natural resources, the latter having priority. While some people visit national parks in search of inspiration and solitude, many others hope to use park lands for more active forms of recreation. Park Service professionals are now subject to increasing pressure from recreation related industries and special interest citizen groups to relax regulations which limit types of park use. An indication of this was an attempt by

Assistant Secretary Arnett to open national parks to snowmobile use and to increase use of over-sand vehicles at Fire Island and Assateague National Seashores. In 1981, Assistant Secretary Arnett ordered NPS to consider opening Yosemite, Sequoia and Lassen Volcanic National Parks to snowmobile use. Public comment was solicited to determine citizen opinion on the proposed snowmobile use. At three hearings, Californians overwhelmingly opposed such recreational activity in the park; Secretary Watt and Assistant Secretary G. Ray Arnett ignored public comment and chose to disregard recommendations from Park Service professionals in the field.

In 1982, Park Service officials at Lassen Volcanic National Park announced that snowmobiles would be granted access to nineteen miles of main road on a trial basis. Early in 1983, Arnett decided to allow snowmobiles in the park on a "limited" basis from December through April. Director of the National Park Service, Russell Dickenson, justified the decision as an extension of the previous trial period. Conservation groups contend that not only are snowmobiles inappropriate in a national park but unnecessary, particularly at Lassen. Large portions of Lassen National Forest which border the park permit snowmobile use. According to then California State Secretary of Resources, Huey Johnson:

> "The opening of Lassen Volcanic National Park by the Department of Interior to snowmobiles is further evidence that Secretary of Interior Watt doesn't understand the public trust obligations of his office. This is, in my opinion, a violation of the law."

Repeated failure by Secretary Watt and Assistant Secretary Arnett to administer and to respect established park policy has exacerbated already existing problems as well as creating new threats to individual parks.

Traditionally, hunting has been prohibited in national parks, which is the only category of public land where this is a general policy. Today, the role of parks as precious sanctuaries for wildlife remains critical. In fact, these havens have become

invaluable as more and more wildlife habitat is lost to residential and commercial development. Problems concerning wildlife protection have frequently arisen when park boundaries, drawn on a political rather than ecological basis, fail to include the full territory of native species. As a result, animals given refuge within a park often move across park boundaries in search of food and shelter. At Carlsbad Caverns National Park, New Mexico, and Guadalupe Mountains National Park, Texas, such movement by mountain lions became a problem for sheep grazers in 1982.

Assistant Secretary of Interior Arnett, promptly ordered the Park Service to join in cooperative efforts with the state of New Mexico to aid the ranchers by allowing local hunters to kill mountain lions in the park.

Conservation organizations and Park Service officials at Carlsbad Caverns and Guadalupe Mountains national parks staunchly opposed the implementation of the policy. Both evinced concern that the change in park wildlife policy which had been strongly supportive of wildlife protection, would set a precedent for the weakening of such protection throughout the park system. The normal NPS management policy prohibits the destruction or removal of wildlife from any park unit unless danger to human life or park resources is evident. In may of 1982, Defenders of Wildlife and the Sierra Club Legal Defense Fund filed suit against Interior Secretary Watt charging that the new policy described in the Memorandum of Agreement would permit the illegal killing of wildlife within two national parks. Though the case is still pending in court, the new Administration in New Mexico has stated it no longer supports shooting mountain lions in the parks.

In the summer of 1981, another attempt to reverse established park policy in response to pressure from special interests occurred at Fire Island National Seashore. In question was a proposal to spray a pesticide known to harm bird and marine life over the park in hopes of controlling the mosquito population. Supporting a recommendation from local

government officials, Assistant Secretary of Interior Arnett reversed established NPS policy and ordered use of the pesticide in flagrant disregard for a ban on the use of chemical pesticides in parks. The National Parks and Conservation Association and the Environmental Defense Fund filed suit in a successful effort to prevent the use of the pesticide. A biological control method was used instead, and the mosquito problem was controlled.

Commercial exploitation of park natural resources undoubtedly has adverse repercussions which affect indigenous plants and wildlife species, however, Secretary Watt's neglect with regard to wildlife resources has been more explicit. The plight of Yellowstone's grizzly bears tragically exemplifies Watt's irresponsible stewardship.

Ten years ago visitors flocked to Yellowstone National Park to see the bears. Not only did they see them, but they fed them, tried to play with them and literally loved them to death. In recognition of the mutual destructiveness of that relationship, Park Service officials drastically revised their management policies with regard to the grizzlies. Efforts were made to separate the grizzlies from their admiring public, open garbage dumps in the park were closed, and bears were relocated into backcountry areas.

Today Yellowstone grizzlies face even more serious threats. In response to the decrease in food supply when garbage dumps were removed, the grizzlies expanded their territories in search of food, frequently moving outside of park boundaries where they were no longer protected. Now poaching and habitat destruction rather than an overly affectionate public may mean the demise of Yellowstone's grizzly population.

Research conducted by the federal-state Interagency Grizzly Steering Committee (IAGBSC) determined that if immediate action to restore the grizzly population were not taken, Yellowstone stood to lose the bears forever. Currently 200-300 bears, at

most, inhabit the park and of those, park professionals estimate that adult females number only 30.

Although a modest increase in funding has been provided for law enforcement and certain backcountry areas of Yellowstone frequented by grizzlies have been closed to visitors, these actions approved by Secretary Watt may well prove to be only cosmetic. In an effort to dilute public attention from the plight of the Yellowsteon grizzly, Assistant Secretary Arnett disbanded the IAGBSC, and the Chairman, Roland Wauer, was transferred to a new assignment. In his final report, Wauer stated:

> "Grizzly bear habitat is being nickle-and-dimed out of existence... Unless some change occurs, the probability of retaining this wildland species in Yellowstone National Park in minimal."

Instead of heeding the team's recommendations for action focused on Yellowstone bears, Arnett expanded the new Committee's scope to deal with all grizzlies in the lower 48 states, and removed NPS as lead agency. If Yellowstone grizzlies are to survive then lands of the four national forests surrounding the park which comprise the balance of the bear's critical habitat, must also be managed to protect the bears. Unfortunately, Secretary Watt continued to support oil, gas and geothermal drilling and hard rock mining around the park's boundaries.

Conclusion

The roads, visitor centers and services of the national parks are certainly in better condition than they were in 1980. But are the parks better off and is the Park Service a better agency? Clearly, the answer is no. At no time in recent history has morale of the Park Service professionals been so low. The serious and significant problems documented in the 1980 State of the Parks report to Congress are not being given sufficient attention. But even worse the development and energy leasing policies of the Administration ensure that park resources especially in the west, will continue to face additional threats for decades to come.

Secretary Watt has proclaimed repeatedly that he is a good steward of the parks in contrast to previous Administrations and Congress. His definition of stewardship is so limited that the real problems facing the parks are being largely ignored and in many cases exacerbated. There is no doubt that the physical facilities in the parks needed improvements and the Secretary has accomplished that. But what of the air, water, land, scenery, historic objects, the wildlife and other resources that were to be left unimpaired for future generations? That is the real test of stewardship which Congress established in its founding of the National Park Service in 1916. It is a test which the Secretary has utterly failed.

Senator HECHT. Thank you very much.
Mr. Peterson.

STATEMENT OF RUSSELL W. PETERSON, PRESIDENT, NATIONAL AUDUBON SOCIETY

Mr. PETERSON. Mr. Chairman, Senator Chafee, I am here today representing the 500,000 members of the National Audubon Society that works in close harmony with the many other environmental groups in the country, and we are determined that no one is going to drive a wedge between us.

We are equally and deeply concerned about what has been going on in our country relative to environmental law.

In regard to the Secretary of the Interior, I want to point out at the start that although he has this great responsibility in the Department of the Interior, he has been given by President Reagan a much greater responsibility as chair of the Cabinet Council on Natural Resources.

In meeting with Judge Clark recently, he pointed out that he had been asked by the President to carry out a job if he is confirmed, and that he was looking forward to that, so this person becomes the prime implementer of the environmental policies of the President with impact throughout the whole Government. He has become President Reagan's overall Secretary of the Environment. It is through that Cabinet Council that the White House has consistently undermined the Nation's environmental protection.

This dominant role of the White House is well illustrated by the recent vetoing of EPA Administrator William Ruckelshaus' attempt to face up to the serious acid rain problem that our country has created for itself and its neighbors. Only this week EPA bowed to the White House and its pro-sheep ranching friends to permit once again the use of the notorious poison, compound 1080, on public lands. In so doing, that dealt a symbolic defeat to wildlife protection in this country.

I do not intend to recommend that you consent or not consent to the appointment of Judge Clark. Rather it is my objective here today to recommend what advice you give him.

As elected representatives of the people of the United States it is certainly obvious to you that the people are determined to protect their national environment. Congress has over the years in a bipartisan effort mandated that the President and his appointees administer and enforce a series of environmental laws. The Reagan administration has failed to carry out this mandate. Their policies have been in direct conflict with it. The challenge we have is to get the President to change his policies.

Judge Clark, a close friend of the President, with the job of leading the President's administrationwide environmental programs, should theoretically be in the best position of anyone to convince the President to change his policies. This will not be easy. Just recently upon the resignation of James Watt the President praised the Secretary for his performance and stated, and I quote, "He has initiated a careful balance between the needs of the people and the importance of protecting the environment."

It shows once again the President's lack of understanding of what the environmental protection laws are all about.

Is protecting the air we breathe a need of the people? How about protecting the water we drink or our own yards from toxic materials? Are these frills we can't afford? Over 85 percent of the people say no.

What about the other life around us? The plants and animals, the centuries-old redwood trees, the eagles, the bears, the ducks, the geese, the whales, the deer, the robins and bluebirds? Do we need them? You bet we need them, and so will our children and grandchildren.

It is such needs that must be given some reasonable priority on the President's hierarchy of concerns. I hope that Judge Clark can help to make that happen, can get the President to care about the environment. If no change occurs in the President's policy, it will make little difference who was Secretary of the Interior. Confrontation with the people over the fulfillment of these important needs will continue.

One area of special confrontation with Secretary of the Interior James Watt has been over the protection of our public lands. His special mission has clearly been to expand the economic use of these lands to the detriment of the natural resources whose stewardship he is primarily assigned. It was the growing pressure from development that led Congress in the first place to set aside wilderness areas, national parks and wildlife refuges before excessive development destroyed the special natural values. This doesn't mean that economic enterprises can't be cautiously carried out, for example, on some wildlife refuges at certain times under controlled conditions, but it does mean that on wildlife refuges protecting the wildlife comes first.

If the national wildlife refuge system was meant primarily for economic uses, it would have been named the National Grazing, Hunting, Mining, and Timbering System.

The Secretary of the Interior should ideally be selected from among those who have demonstrated a thorough knowledge of the

natural resources he or she is mandated to protect and from among those who are capable of providing dedicated stewardship of such resources. It is the Secretary of Commerce's prime job to push economic development. It is the Secretary of the Interior's prime job to protect the natural resources entrusted to him from inappropriate economic development.

Now we urge this committee charge the next Secretary with restoring a proper balance to his Department's programs. For example, we think that in the leasing of public lands for oil and gas and coal, Mr. Watt proceeded too far too fast, with insufficient attention given to need, fair market price, and environmental damage. We think Mr. Watt has been woefully deficient in his role as steward for the public lands, and in so doing he has violated the spirit if not the letter of the law and the trust the Senate placed in him in confirming him. The country deserves better.

Historically the National Audubon Society has enjoyed a close working relationship with Secretaries of Interior, regardless of political party. We find the current adversarial confrontation uncomfortable, unproductive, and damaging in terms of the making of public policy. We hope that should he be confirmed, Mr. Clark will assume his new responsibilities with a sense of shared responsibility with the American people.

We are deeply concerned, however, that Judge Clark will merely continue to reflect ongoing White House politics or policies with which we strongly disagree. If this turns out to be the case, the Congress will hopefully continue its close vigilance over the Department of Interior's actions and remain a real steward of our natural resources.

In conclusion, Mr. Chairman, let me encourage you to insist on Judge Clark telling you what he plans to do about the discredited Reagan and Watt policies; his stonewalling yesterday and his resort to secrecy is disturbing. I recommend that you get a commitment from him to cover Watt's policies case-by-case as he says he wants to do, and to come back to you shortly with his conclusions. Then you would be in a better position to decide how to vote on his confirmation.

[The prepared statement of Mr. Peterson follows:]

National Audubon Society
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STATEMENT OF RUSSELL W. PETERSON, PRESIDENT

NATIONAL AUDUBON SOCIETY

AT THE CONFIRMATION HEARINGS FOR

WILLIAM CLARK

SECRETARY-DESIGNATE

DEPARTMENT OF INTERIOR

NOVEMBER 2, 1983

Judge William Clark has come before the Senate of the people of the United States to gain your advice and consent for the job of Secretary of the Department of the Interior.

This cabinet officer not only carries the responsibility Congress has given him to be the steward of the vast public lands with their incomparable living and nonliving resources that we the people, easterners as well as westerners, have inherited. He also carries the far-reaching responsibility that President Reagan has given him of chairing the Cabinet Council on Natural Resources. Thus this person has become the prime implementor of the environmental policies of the President, with impact throughout the whole government. He has become President Reagan's overall "Secretary of the Environment."

Judge Clark told several of us a few days ago that the President will want his new Secretary of the Interior to chair that Council. Judge Clark pointed out that he expected to play a significant role in that position. That means a significant role in the policies of the Environmental Protection Agency, the Department of Energy, the State Department's international environmental programs, the U.S. Forest Service, the Army Corps of Engineers, the Council on Environmental Quality, and other agencies in addition to his own Interior Department.

It is through this Cabinet Council that the White House has consistently undermined the nation's environmental protection. This dominant role of the White House is well illustrated by the recent vetoing of EPA Administrator

William Ruckelshaus' attempt to face up to the serious acid rain problem that our country has created for itself and its neighbors. And only this week EPA bowed to the White House and its pro-sheep-ranching friends to permit once again the use of the notorious poison, Compound 1080, on public lands -- and in so doing dealt a symbolic defeat to wildlife protection in this country.

I do not intend to recommend that you consent or not consent to the appointment of Judge Clark. Rather, it is my objective here today to recommend what advice you give him.

As elected representatives of the people of the United States, it is certainly obvious to you that the people are determined to protect their natural environment. Congress has over the years, in a bipartisan effort, set aside special areas of our country to protect their unusual natural values for the benefit of our and future generations. And Congress has mandated that the President and his Secretary of the Interior administer and enforce the laws pertaining to such public lands. At the same time the Congress has mandated through other legislation that the President and other of his appointees carry out the laws to protect the air we breathe, the water we drink, and the land where we grow our food. As I have already stated, the President has given his Secretary of the Interior the dominant assignment in this broader field as well.

The Reagan Administration has failed to carry out this mandate. Their policies have been in direct conflict with it. The challenge is to get the President to change his policies.

Judge Clark, a close friend of the President, with the job of leading the President's administration-wide environmental programs, should theoretically be in the best position of anyone to convince the President to change his policies.

Just recently, upon the resignation of James Watt, the President in praising the Secretary for his performance, stated: "He has initiated a careful balance between the needs of the people and the importance of protecting the environment."

This shows once again the President's lack of understanding of what the environmental protection laws are all about.

Is protecting the air we breathe a need of the people? How about protecting the water we drink or our own yards from toxic materials? Are these frills we can't afford? Over 85% of the people say "no."

What about clean streams and lakes and estuaries to swim and fish in? And the wonder and beauty of National Parks like Yellowstone, Yosemite and the Gates of the Arctic? What about the other life around us -- the plants and animals -- the centuries-old redwood trees, the eagles, the bears, the ducks, the geese, the whales, the deer, the robins, and bluebirds? Do we need them? You bet we need them. And so will our children and grandchildren.

It is <u>such</u> needs that must be given some reasonable priority on the President's hierarchy of concerns. I hope that Judge Clark can help to make

this happen -- can get the President to care about the environment. If no change occurs in the President's policies, it will make little difference who is Secretary of the Interior. Confrontation with the people over the fulfillment of these important needs will continue.

When I met with Judge Clark he described his experience as Deputy Secretary of State as one which provided him with good background for the job of Secretary of the Interior. He specifically referred to his role in the negotiations with Canada over acid rain, and with the whole international community over the Law of the Sea and over energy policy. If his referencing these actions was meant to indicate his ongoing support of the policies they represent, then I would be concerned indeed. For this Administration has tried to scuttle the 10-year Law-of-the-Sea effort in orther to further the interests of U.S. mining companies; told the Canadians to get lost when Canada asked for relief from our raining acid on them; and promoted the free enterprise system as the sole solution to the world's energy problems.

In view of the extensive and rapidly growing knowledge of the interconnectedness and interdependence of all life on earth, and of the long-term dependence of a healthy economy on a healthy environment, there is little excuse for the top decision makers in our land today not to bring such understanding to bear on fulfilling this nation's environmental policy as mandated by Congress in the 1970 National Environmental Policy Act.

Certainly the person who leads our nation's overall environmental effort should have this understanding and be able to articulate this vision to the people of the country.

One area of special confrontation with Secretary of the Interior James Watt has been over the protection of our public land. His special mission has clearly been to expand the economic uses of these lands to the detriment of the natural resources whose stewardship he is primarily assigned.

He has contended that those who opposed these Administration policies were against development, that they wanted to lock up the public lands and throw away the key. He was dead wrong. Opponents like the National Audubon Society are supportive of reasonable development when carried out so as not to damage the natural resources which the public land was set aside to protect.

It was the growing pressure from development that led Congress to set aside wilderness areas, national parks and wildlife refuges before excessive development destroyed their special natural values. Take our National Wildlife Refuge System, for example. It provides refuges for wildlife. The dictionary says a refuge is "a place providing protection or shelter." The first refuge, Pelican Island in Florida, was set aside by President Theodore Roosevelt to protect the brown pelicans that were being wiped out by commercial hunters. The last one, Protection Island in the State of Washington, was set aside to protect wildlife from a housing development. The other 409 national refuges were established for similar reasons -- to protect wildlife from excessive or incompatible economic uses.

This doesn't mean that economic enterprises can't be cautiously carried out on some refuges at certain times under controlled conditions. But it does mean that protecting the wildlife comes first. If the National Wildlife

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Refuge system was meant primarily for economic uses, it would have been named the National Grazing, Hunting, Mining and Timbering System.

The Secretary of the Interior should ideally be selected from among those who have demonstrated a thorough knowledge of the natural resources he or she is mandated to protect and from among those who are capable of providing dedicated stewardship of such resources. It is the Secretary of Commerce's prime job to push economic development. It is the Secretary of Interior's prime job to protect the natural resources entrusted to him from inappropriate economic development.

The serious polarization that has developed in our country during the past three years over environmental matters has stemmed directly from the Reagan administration's appointment of managers to environmental agencies who give priority to the interests of commercial exploiters rather than to protection of the environment. This is in direct conflict with the intent of the laws you have mandated them to administer. I recommend you advise the Secretary of the Interior nominee to use his special influence to get the President to reverse the roles of his environmental lieutenants so that once again those hired to protect the environment are giving primacy to that role.

Within his own department the Secretary has a major job to do.

We urge you to make the most careful examination possible of Mr. Clark's statement to this Committee regarding his policies and plans, and of his

answers to questions that you pose him regarding potential reevaluation and reassessment of his predecessor's policies.

We urge that this Committee charge him with restoring a proper balance to his department's programs. For example, we think that in the leasing of public lands for oil, gas, and coal, Mr. Watt proceeded too far too fast, with insufficient attention given to need, fair market price, and concomitant environmental damage. We feel that the Department's development programs must be implemented with full compliance given to relevant statutes and after necessary ecological assessments and inventories have been completed and weighed. We think that Mr. Watt has been woefully deficient in his role as steward for the public lands; for example, failing to enforce the Congressional mandates of the Stripmining Act; permitting federal lands to be overgrazed; encouraging sales of the public lands; pushing environmentally devastating and financially irresponsible projects like the Garrison Diversion Unit; undermining the Army Corps of Engineers' Section 404 permit process for protecting wetlands; and cutting virtually all research and resource inventory programs so essential to informed decision making.

In so doing he has violated the spirit if not the letter of the law and the trust the Senate placed in him in confirming him.

The country deserves better.

Historically the National Audubon Society has enjoyed a close working relationship with Secretaries of the Interior, regardless of political party.

We find the current adversarial confrontation uncomfortable, unproductive, and damaging in terms of the making of public policy. We would hope that should he be confirmed, Mr. Clark would assume his new responsibilities with a sense of shared responsibility with the American people.

We are deeply concerned, however, that Judge Clark will merely continue to reflect ongoing White House policies with which we strongly disagree. If this turns out to be the case, the Congress will hopefully continue its close vigilance over Department of the Interior actions and remain the real steward of our natural resources.

The environmental movement is strong, and growing. We are determined to continue to work with you to see that our natural heritage, our parks, wildlife, and open spaces are preserved for future generations.

Senator HECHT. Thank you, Mr. Peterson.
Mr. HAIR.

STATEMENT OF DR. JAY D. HAIR, EXECUTIVE VICE PRESIDENT, NATIONAL WILDLIFE FEDERATION

Dr. HAIR. Thank you, Mr. Chairman, Senator Chafee, ladies and gentlemen. I am pleased to testify today on behalf of over 4 million members and supporters of the National Wildlife Federation.

During the past few weeks the National Wildlife Federation has struggled quite frankly as I am sure each of you have, with what our position should be with regard to this nomination. We have looked hard for information on which to base a decision on Mr. Clark's nomination and confirmation.

Unfortunately, the record to date does not provide a substantive basis on which to justify a positive endorsement of Mr. Clark as designate Secretary of the Interior.

I trust that it is clear to each of you that in ordinary circumstances I would not appear before this committee and take a neutral position, but these are not ordinary circumstances. Mr. Clark's nomination appears in a circumstance unlike that of any natural resources Cabinet level position in modern history. This troublesome context is characterized by the five following major points.

First, the overwhelming majority of the resource management policies adopted by Secretary Watt and now in place at the Department of Interior are totally unacceptable to the members of the National Wildlife Federation and we believe to most Americans.

Second, many top Interior Department officials have made it clear that they remain committed to the Watt policies, many which have been discredited by Congress and the court.

Third, Mr. Clark has neither expressed nor stated that he is concerned about any of Secretary Watt's policies or personnel nor indicates that he intends to change any of them.

Fourth, in contrast to other recent nominees for top environmental posts such as William Ruckelshaus of the Environmental Protection Agency, Mr. Clark has little experience in the area for which he is being nominated.

Finally, Mr. Clark's record on conservation issues is at best mixed.

On the other hand, a number of factors provide modest support for Mr. Clark's confirmation, including his close personal relationship to the President, his apparent willingness to listen to a wide spectrum of views, his recent expression of willingness to settle pending court cases, and his reported positive actions on some important environmental issues during Governor Reagan's administration in California.

Moreover, when I met with Mr. Clark on October 21, I found him to be a forthright and sincere individual. On the other hand, several factors are in the public record that present strong reasons for concern over Mr. Clark's commitment to both the concepts of conservation and responsible, balanced resource management. For example, the federation has carefully examined Mr. Clark's judicial record and we are deeply concerned by his apparent bias against enforcement of conservation laws. In brief, it indicates that of the

18 environmental cases that reached the California Supreme Court during his tenure, Mr. Clark sided with those advocating resource exploitation over resource conservation in all but one case.

The other troublesome areas include Mr. Clark's recent statement that he played a key role in the administration's acid rain negotiations with Canada and its position on the Law of the Sea Treaty. It is our view that both of these issues have been seriously mishandled by the Reagan administration.

Perhaps most significant, however, is Mr. Clark's reluctance to signal a clean break with Secretary Watt's policies and management team. This is the real issue of this confirmation hearing, and I urge this committee to focus its attention on the degree to which Mr. Clark is likely to alter the Interior Department's misguided resource management policies and to bring his own management team to the Department.

As I explained in length in my formal statement, in a 24-page letter to Mr. Clark, there are 34 key issues that the wildlife federation believes require expeditious action by the next Secretary of the Interior. They fall roughly into four categories—one, the giveaway of public resources without adequate environmental and economic planning; two, abandonment of key resource management responsibilities; three, the shortsighted effort to stall acquisitions for parks and refuges; and four, the disproportionate favoring of development over conservation.

I feel strongly that Mr. Clark should provide a clear picture of how he intends to deal with these issues before this committee votes on his nomination.

In conclusion, Mr. Chairman, I appreciate fully the significance of these hearings and the tough decision before this committee, and as has been our practice in the past, the National Wildlife Federation desires to play as supportive and helpful role as possible with these important deliberations.

I sincerely wish I could provide you with a clear, positive statement of support for Mr. Clark's confirmation as the next Secretary of the Interior, but for the reasons summarized above and detailed in my complete testimony, the National Wildlife Federation must withhold judgment on this important matter at this time.

Let me note further, however, that I am a pragmatist and a political realist. I recognize that Mr. Clark will in all likelihood be confirmed.

If that is the case, I strongly hope that he will bring about the change in tone, personnel, and policies that the Interior Department so desperately needs. To that end, the National Wildlife Federation stands ready, willing, and able to work with him in a positive and responsible manner.

Thank you.

[The prepared statement of Dr. Hair follows:]

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

Statement of Dr. Jay D. Hair,
Executive Vice President, National Wildlife Federation
at the Confirmation Hearings on the Nomination of
William P. Clark as Secretary of the Interior

Senate Committee on Energy and Natural Resources
November 2, 1983

Mr. Chairman and Members of the Committee:

I am Jay D. Hair, Executive Vice President of the National Wildlife Federation--the nation's largest private conservation organization with over 4 million members and supporters. I appreciate the opportunity to appear before this Committee to testify on the nomination of Mr. William P. Clark for the position of Secretary of the Interior.

Mr. Chairman, I speak for an organization that believes in the wise utilization of our nation's natural resources. Above all, we desire to restore balance and consensus on the important questions of natural resource policy within the Department of the Interior and to restore public confidence in our government's stewardship of the public estate. Unfortunately, today there is no such balance or consensus and, as a result, no such public confidence.

For the past two and one-half years the nation has faced a contentious, development-oriented Secretary of the Interior--a

person who has too often been willing to put the interests of a few above the interests of the nation. As a result of both his style of leadership and his policies, Secretary Watt shattered the broad consensus that had grown up around natural resource management issues. Confrontation rather than compromise became the rule.

But it is time to look forward, not backward. I am hopeful that both the American public and the Reagan Administration will view this change in leadership at the Interior Department as an opportunity to return to more responsible resource management policies--ones characterized by innovation, balance, and cooperation. That is the spirit in which I present the views of the National Wildlife Federation on the nomination of Mr. William P. Clark.

The Federation's Position

Over the past two weeks, the National Wildlife Federation has struggled--as I'm sure each of you have--with what our position should be with regard to this nomination. We have sent Mr. Clark a detailed letter outlining our concerns with the Interior Department's policies. On October 21st, I met with him for over an hour and found him to be a forthright and sincere individual. I have spoken by telephone with those who have worked personally with Mr. Clark. The Federation's staff has reviewed the public record for information on Mr. Clark's

conservation record, and we have analyzed his judicial opinions in detail. In short, we have looked hard for information on which to base a decision on Mr. Clark's nomination.

Unfortunately, the record to date does not provide a substantive basis on which to justify a positive endorsement of Mr. Clark as the next Secretary of the Interior. I trust that it is clear to each of you that under ordinary circumstances, I would not appear before this Committee and take a "neutral" position. But these are not ordinary circumstances. As summarized herein, Mr. Clark's nomination appears in a manner unlike that of any natural resources/environmental cabinet level position in modern history. This troublesome context is characterized by the following major points:

- the overwhelming majority of the resource management policies adopted by Secretary Watt and now in place are totally unacceptable to the members of my organization and, we believe, to most Americans;
- many of the remaining top Interior Department officials have made it clear that they are unwilling to work with conservation organizations such as the National Wildlife Federation and remain committed to the Watt policies--many of which have been discredited by Congress and the Courts;
- in contrast to other recent nominees for top environmental posts--such as William Ruckelshaus--Mr. Clark has little experience in the area for which he is being nominated;
- Mr. Clark's record on conservation issues is mixed, at best; and
- Mr. Clark has neither expressly stated that he is concerned about any of Secretary Watt's policies or

personnel nor indicated that he intends to change any of them.

Under these unique circumstances, I cannot presently take a positive position with respect to this nominee. However, I hope my testimony will aid the Committee in its effort to amass the additional information necessary to fully assess Mr. Clark's qualifications. In so doing, I hope to suggest to the Committee further lines of inquiry into his qualifications. Accordingly, my testimony will first outline our views on the pros and cons of Mr. Clark's nomination. I will then detail the policy issues that we believe the Senate must examine as part of the confirmation process and against which Mr. Clark should be measured as Interior Secretary, if confirmed.

Mr. Clark's Mixed Record

As I have noted, the Federation's extensive review of Mr. Clark's background, public statements and public and private achievements do not resolve the question of whether he should or should not be confirmed. Mr. Clark's close relationship to the President, his recent willingness to meet with the conservation community, his apparent willingness to seek settlement of pending court cases, and his environmental record as part of the Reagan Cabinet in California, must be weighed against his judicial record on conservation issues, as well as his reluctance to signal a clean break with Secretary Watt's policies and personnel.

The Case in Favor of Mr. Clark

Perhaps the strongest argument in favor of confirming Mr. Clark is that he is one of President Reagan's closest and most trusted aides. This puts him in a strong position to make the personnel and policy changes that need to be made at Interior.

Moreover, in a refreshing and necessary break with the style of Secretary Watt, Mr. Clark has already shown a willingness to listen to a wide spectrum of views. As you know, he has already met with the leaders of the major conservation organizations and has promised to meet with us again during the first week after his confirmation--to begin working on our concerns point-by-point.

Even more significantly, Mr. Clark has indicated that he intends to seek settlements of the numerous lawsuits we have pending against the Interior Department. This is a major step in the right direction. Many times throughout the past two years, we sought to negotiate settlements of our differences with the Department of the Interior. Indeed, in several instances we were able to reach agreement in principle with lower level Interior officials, only to have the agreement "vetoed" by top agency officials. Attached to this statement is a list of cases we have pending against the Interior Department. I want to state for the record that we remain willing and eager to negotiate settlements to each and every one of these matters. I am pleased that Mr. Clark apparently feels the same.

In addition, there are apparently other positive aspects to Mr. Clark's environmental record that have not been heretofore made public. Norman (Ike) Livermore, who served as the Secretary of Natural Resources in Governor Reagan's Cabinet in California, has told me that Mr. Clark fought inside the Cabinet for a number of important conservation issues. Mr. Livermore recalls that Mr. Clark worked to block a proposed road across the John Muir Trail, that he strongly defended protection of the Redwoods and establishment of a Forestry Practices Act, and that he opposed a potentially damaging dam across the Eel River. I hope the Committee requests Mr. Clark to elaborate on these positive aspects of his conservation record during these hearings.

The Case Against Confirmation

On the other hand, there are strong reasons for concern over Mr. Clark's commitment to both the concepts of conservation and responsible, balanced resource management. For example, the Federation has carefully examined Mr. Clark's judicial record, and we are deeply concerned by the apparent bias against enforcement of conservation laws. An outline of that judicial record is appended to this statement. In brief, it indicates that of the 18 environmental cases that reached the California Supreme Court during his tenure, Mr. Clark sided with those advocating resource exploitation over resource conservation in all but one of the cases. In the overwhelming majority of these

cases, Mr. Clark failed to gain the support of more that one or two of his colleagues on the bench. Mr. Clark sided with the majority only three times, was supported by no other justice in five of the cases, and was joined by only one or two other justices in 10 other cases.

Even more troubling to us, is the fact that in several of these cases Mr. Clark had to strain common sense and logic to reach his written conclusions. In other words, his opinions do not simply reflect the views of a "strict constructionist" as some have suggested, but rather those of a judge with a strong bias towards a pro-development outcome. For example, in Bozung v. Local Agency Formation Commission of Ventura County, 13 Cal.3d 263, 529 P.2d 1017, 118 Cal.Rptr. 249 (1975), the California Supreme Court ruled, 6 to 1, that the California Environmental Quality Act required the preparation of an environmental assessment on a proposed land development project. The law requires that state agencies prepare impact reports before approving any project "which may have a significant effect on the environment." Mr. Clark dissented on the ground that the agency was not "directly" engaged in the development. Yet, the statute contains no such qualifier. In other words, he read this extra requirement into the law in order to reach the result which favored the developer.

I urge the members of the Committee to read a number of Mr. Clark's judicial opinions with care and draw your own conclusions.

Also troubling is Mr. Clark's recent statement that he played a role in the Administration's acid rain negotiations with Canada and its position on the Law of the Sea Treaty. It is our view that both of these issues have been seriously mishandled by the Administration.

Summary of Record

In short, Mr. Clark's record with regard to conservation matters is mixed--at best. Given that fact, Mr. Clark's limited experience with Interior Department issues, and the abysmal record of this Administration on conservation issues, I believe that this Committee must carefully test Mr. Clark's commitment to the mission of the Interior Department. This commitment must be measured by one key factor: Mr. Clark's willingness to publicly express his intention to change at least some of the most egregious of Secretary Watt's discredited policies and to bring new people into the top management positions at Interior. For the remainder of my testimony, I would like to explore those policies that are most in need of change by the new Secretary of the Interior.

Issues Requiring Action by the New Secretary of the Interior

Normally, when a President takes office, he is entitled to a great deal of latitude in selecting his Cabinet. However, when an administration has had almost three years in office, and when

its policies have been widely criticized by diverse interests, it is both appropriate and necessary that its nominee be subjected to close scrutiny with regard to his or her views on specific issues.

In any further questioning of Mr. Clark and in your review of his record, I urge you to assess the degree to which he is likely to alter the Interior Department's misguided resource management policies. In a 24-page letter to Mr. Clark, dated October 20, 1983, we presented the 34 key issues that the National Wildlife Federation believes require expeditious action by the next Secretary of the Interior. That letter is attached to my statement, and I respectfully request that it be made a formal part of the hearing record. I would now like to briefly summarize a number of those key issues.

The National Wildlife Federation's concerns with respect to the present policies of the Interior Department fall roughly into four categories:

1. the giveaway of public resources;
2. the abandonment of key resource management responsibilities;
3. the shortsighted effort to stall acquisitions for parks and refuges; and
4. the disproportionate favoring of development over conservation.

I will provide a few examples of issues raised within each category. I refer you to my letter to Mr. Clark for more detail and relevant references.

The Giving Away of Public Resources

The next Secretary of the Interior must reverse Secretary Watt's policy of giving away or selling public resources without adequate environmental or economic planning. One of the key targets for change is the Administration's effort to sell federal coal at "firesale prices" despite the lack of adequate land use and environmental planning, or market demand. Similarly, there is no reasonable justification for plans to offer up for oil and gas development almost the entire outer continental shelf. Especially troublesome to us are plans to lease environmentally sensitive frontier areas such as those in Alaska. Finally, the new Interior Secretary should halt plans to sell up to 200,000 acres of BLM multiple use public lands in this fiscal year. This "asset management" or "privatization" program is unwise and has little public support.

Abandoning of Management Responsibilities

In the past two and one half years, the Interior Department has abandoned or attempted to abandon a number of its key resource management responsibilities. These responsibilities must be fulfilled by the next Secretary of the Interior. For example, under Secretary Watt, the federal strip mine control and reclamation program has fallen apart. The Administration failed to take action against over 1700 unreclaimed strip mines and failed to collect over $44 million in unpaid fines. Efforts to

reduce the lead poisoning of waterfowl were abandoned, and fish and wildlife enforcement activities were weakened. In addition, the federal government stopped asserting federal water rights for multiple purposes, including fish and wildlife, and instead encouraged state and private entities to claim those rights. Also, over 100 million acres of onshore federal lands were leased for oil and gas development without any detailed environmental study of the impacts of that leasing. Finally, the Administration is attempting to relinquish important management responsibilities over federal rangeland through so-called "cooperative management agreements" which would transfer significant rangeland management responsibility to the livestock industry.

Stalling Acquisitions

Secretary Watt and his management team have also failed to adequately provide for the needs of future generations. The Department of the Interior has balked at acquiring National Wildlife Refuge, park, and other recreational lands--many of which are threatened by development. Similarly, it has failed to sufficiently protect our diminishing wetlands by slashing new acquisitions, subsidizing projects that destroy wetlands such as the Garrison Diversion, and supporting regulations--issued by the Army Corps of Engineers--which weaken Section 404 of the Clean Water Act. Finally, the Department has encouraged misuse of our

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resources by failing to develop an adequate federal water resources policy.

Favoring Development Over Conservation

The fourth and final area that must be addressed by the new Secretary of the Interior is the return of the Interior Department to a balanced resource management policy--one that gives equal weight to both conservation and development. Under Secretary Watt, the Interior Department has moved sharply to favor development over conservation. For example, the Department reversed a 25-year old policy and opened over one million acres of wildlife refuges in the lower 48 states to oil and gas development. In addition, the Department is actively encouraging new "economic uses" of the refuges despite the fact that a recent Fish and Wildlife Service study showed that the refuge system is already beseiged by over 7000 resource problems, many related to existing development activities. The budget process has been used to hamper conservation efforts through disproportionate cuts in funds for habitat protection, research, fish hatcheries, and renewable resource management.

The Erosion of Fish and Wildlife Programs

The 34 issues that I have just summarized for you and which are detailed in my October 20th letter to Mr. Clark do not, of course, constitute all of the Interior Department policies of

concern to the National Wildlife Federation or our members. These are the big issues--the high visibility public issues. Of equal concern to us are the hundreds of smaller daily management decisions at Interior. The cumulative impact of those individual decisions has been a slow but significant erosion in federal programs to protect fish and wildlife and their habitat. In order to illustrate this point, I have attached to my statement a detailed inventory of many of the smaller, yet cumulatively significant, decisions that have been implemented by Secretary Watt in the area of fish and wildlife.

While I do not believe that any Secretary-designate could be expected to address completely all of these issues in a confirmation hearing, I feel strongly that Mr. Clark should provide a clear picture of how he intends to deal with these issues before this Committee votes on his nomination.

The Need for Personnel Changes

There is one final point that I believe needs emphasis. There will be no significant changes in policy at the Interior Department without significant changes in agency personnel. Over the past two and one half years, the once proud and professional staff of that agency have been literally stopped from carrying out their responsibilities. For example, staff scientists have admitted to my staff their reluctance to state their professional

opinions out of a fear of reprisal. As one commentator recently observed, "employees who in the past were regarded as distinguished scientists are now scornfully called 'hobbyists '. . . [and] those of questionable loyalty to the conservative cause were dropped." Additionally, the Administration has repeatedly sought to eliminate 40 percent of the PhD-level scientists from the Fish and Wildlife Service. Those responsible for these types of action must simply be removed.

Moreover, the Department's existing top management team is blindly committed to the present destructive policies. It is from the top management team that the new Secretary of the Interior must obtain the best advice. Therefore, if the only thing that changes at Interior is the nameplate on the Secretary's door, nothing significant will change. That--I hope--is unacceptable to this Committee and the Senate as a whole. It is certainly unacceptable to the National Wildlife Federation.

Conclusion

In conclusion, Mr. Chairman, I appreciate fully the significance of these hearings and the tough decision before this Committee. And, as has been our practice in the past, the National Wildlife Federation desires to play as supportive and helpful a role as possible with these important deliberations. I sincerely wish I could provide you with a clear, positive

statement of support for Mr. Clark's confirmation as the next Secretary of the Interior. But for the reasons outlined above, the National Wildlife Federation must remain neutral on this important matter at this time.

Let me note further, however, that I am a pragmatist and political realist. I recognize that Mr. Clark will, in all likelihood, be confirmed. If that is the case, I strongly hope that he will bring about the changes in tone, personnel and policies that the Interior Department so desperately needs. To that end, the National Wildlife Federation stands ready, willing and able to work with him in a positive and responsible manner in the development of natural resource policies of great importance to our Nation.

Thank you and I will be pleased to answer your questions.

Attachment to Testimony of Dr. Jay D. Hair

National Wildlife Federation
Active Cases Involving the Department of the Interior

October 31, 1983

Matter	Caption, Docket No. and Court	Brief Description
Colorado Wilderness Inventory	In Re: Wilderness Inventory Decision, Co. Appeal of Colorado Mountain Club, IBLA, 81-544	Whether BLM followed its own guidelines in preparing its initial wilderness inventory.
Federal Coal Leasing Regulations	NRDC, et al. v. Burford, No. 82-2763 (D.D.C.)	Legality of rules governing leasing of federal coal.
Flathead and Gallatin National Forests	Conner v. Burford, No. 82-42-BU (D. Mont.)	Challenge to BLM practice of leasing public lands for oil and gas development without regard to other resource values that may need protection.
Fort Union Coal Sale	NWF, Wilderness Society v. Watt, No. 83-2647 (D.D.C.)	Challenge to Fort Union Coal Lease Sale under Sec. 204(e) of the Federal Land Management and Policy Act and Department regulations.
Kanab North Uranium Exploration	BLM's Decision to Allow Surface Disturbance within Kanab Creek Wilderness Study Area, Unit AZ-010-31; S.W. Resource Council, IBLA No. 83-355	Whether hardrock mining should be subject to requirements of National Environmental Policy Act.
Oil & Gas Leasing in National Wildlife Refuges	NWF v. Watt, No. 83-2511 (D.D.C.)	Challenge to Interior Department action opening acquired refuge lands in lower 48 states to oil and gas development.

Matter	Caption, Docket No. and Court	Brief Description
Osceola National Forest	Kerr-McGee v. Watt, No. 83-0322 (D.D.C.) [NWF Intervenors on side of Government]	Intervenor in case challenging Interior Department's denial of phosphate strip-mining lease.
Powder River Basin Coal Lease Sale	Northern Cheyenne Tribe v. Watt, No. 82-116-BLG; consol. with NWF v. Burford, No. 82-117-BLG (D. Mont.)	Challenge to April 1982 Powder River Basin coal lease sale on grounds that, among other things, Interior Department failed to obtain fair market value and failed to adequately plan for sale.
Preference Right Coal Leases	NRDC, et al. v. Berkland, et al. and Utah Power & Light Co., et al., No. 75-0313 (D.D.C.)	Notice of intent to file suit alleging that Interior is violating existing Court order by failing to prepare adequate environmental impact statements before approving PRLAs.
Red Rim Coal Unsuitability	In the matter of designating a 20,480-acre tract, known as "Red Rim," as unsuitable for surface mining, Petition for Unsuitability before the Wyoming Department of Environmental Quality and OSM	Raises issue of whether BLM can reclassify land as suitable for coal development before wildlife studies are complete.
Surface Mining (NEPA)	NWF v. Watt, No. 82-0320 (D.D.C.)	Notice of intent to challenge, among other things, the adequacy of environmental impact statement on new strip mining regulations.
Surface Mining (Failure to Inspect)	Council of Southern Mountains v. Watt, No. 79-1521 (D.D.C.)	Action to compel compliance with existing settlement agreement that requires written determinations as to whether individual corporate executives should be penalized for willful violations of Surface Mining Control & Reclamation Act.

Matter	Caption, Docket No. and Court	Brief Description
Surface Mining Regs.	In Re: Permanent Surface Mining Regulation Litigation II, No. 79-1144 (D.D.C.)	Consolidated challenges to permanent program regulations under the Surface Mining Control and Reclamation Act.
BLM Wilderness Study Area Removals	Sierra Club, et al. v. Watt, S. 83-35LKK (E.D. Calif.)	Challenge to the de-designation of 173 wilderness study areas covering over 800,000 acres.

ATTACHMENT TO TESTIMONY OF DR. JAY D. HAIR

JUDICIAL RECORD OF JUSTICE WILLIAM P. CLARK
ON THE SUPREME COURT OF CALIFORNIA

During the decade that Judge Clark sat on the California Supreme Court (1972-81), eighteen environmental cases were handed down.[1/] Of these, sixteen were decided in favor of the conservation side. But only once (in a 7-0 decision) did Judge Clark join in the court's pro-conservation decisions. Five times he was the sole dissenter. On the two occasions that the majority took the

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1/In selecting cases for inclusion in this analysis, we have sought to include only those decisions which squarely raised a conservation-versus-development issue in which the justices' votes could clearly be characterized as "pro-conservation" or "pro-development." Consequently, we have excluded from this review two cases in which other factors clouded the environmental issues.

Environmental Defense Fund, Inc. v. East Bay Municipal Utility District, 26 Cal.3d 183, 605 P.2d 1, 161 Cal. Rptr. 466 (1980) presented a challenge to the Bureau of Reclamation's Auburn Dam project. In the first round, Judge Clark wrote the majority's "pro-development" decision holding that federal reclamation law pre-empted state law governing the selection of the project's diversion point. However, when the U.S. Supreme Court vacated that decision, Judge Clark wrote a new opinion for an undivided court taking the opposite view. Because Judge Clark first took the "pro-development" side, but sided with conservationists upon instruction by the U.S. Supreme Court, this case does not reflect a clear pro- or anti-conservation position on the part of the Judge.

In Woodland Hills Residents Association, Inc. v. City Council of the City of Los Angeles ["Woodland Hills II"], 26 Cal.3d 938, 609 P.2d 1029, 164 Cal. Rptr. 255 (1980), the court was presented with both an environmental question arising under the California Environmental Quality Act and a political contribution question. Judge Clark wrote the majority opinion which held that an environmental impact report would be required but also allowed developers to make political contributions to council members voting on their proposed subdivision. Because it is impossible to know what "trading" occured within the court in order to secure the majority position, this decision was deemed not to reflect a pure "pro-conservation" position and was not included in this analysis.

anti-conservation position (4-3 decisions), Judge Clark wrote the majority opinion.

The pattern is remarkably strong. While other justices switch from side to side, for Judge Clark the result is virtually always the same--conservation loses.

In the pages that follow, these decisions are presented in a graphic outline, an index, and a case-by-case review.

OUTLINE OF DECISIONS

This outline summarizes the eighteen environmental law decisions in which Judge Clark participated while a member of California's Supreme Court. Judge Clark's positions are indicated below by the letter "C". Those of the other justices are represented by a block.

Issue	Case Name (Index number)	Outcome: Pro-Conservation								Anti-Conservation				
PUBLIC TRUST	Placer County (#7)										C			
	Lake County (#6)										C			
	City of Berkeley (#8)											C		
OIL DRILLING	No Oil, Inc. (#13)											C		
REC. ACCESS	Berk (#10)									C				
COASTAL DEV.	*See the Sea, Ltd. (#15)												C	
IMPACT REPORT	Bozung (#4)									C				
LAND USE/ZONING	Arnel Development (#2)										C			
	Agins (#1)									C				
	Assoc'd Home Builders (#3)										C			
	San Diego Building (#14)											C		
	HFH, Ltd. (#11)									C				
	Builders Association (#5)											C		
LAND CON. ACT	Sierra Club (#16)										C			
REDEVELOPMENT	Sweetwater Valley (#17)							C						
ATTORNEY FEES	Woodland Hills I (#18)											C		
NUISANCE	*Lands Unlimited (#9)												C	
BILLBOARDS	Metromedia (#12)									C				

*Cases in which the majority took the anti-conservation position.

INDEX OF ENVIRONMENTAL DECISIONS

Number	Case name and citation	Subject matter	Court's Decision	Vote	Clark's Position
1.	Agins v. City of Tiburon, 24 Cal.3d 266, 598 P.2d 25, 157 Cal. Rptr. 372 (1979)	Land use / zoning	Conserve	6-1	Wrote dissent
2.	Arnel Development Co. v. City of Costa Mesa, 28 Cal.3d 511, 620 P.2d 565, 160 Cal. Rptr. 904 (1980).	Land use / zoning	Conserve	5-2	Joined dissent
3.	Associated Home Builders of the Greater Eastbay, Inc. v. City of Livermore, 18 Cal.3d 582, 577 P.2d 473, 135 Cal. Rptr. 41 (1976).	Land use / zoning	Conserve	5-2	Wrote separate dissent
4.	Bozung v. Local Agency Formation Commission of Ventura County, 13 Cal.3d 263, 529 P.2d 1017, 118 Cal. Rptr. 249 (1975)	Impact report	Conserve	6-1	Wrote dissent
5.	Builders Association of Santa Clara--Santa Cruz Counties v. Superior Court of Santa Clara County, 13 Cal.3d 225, 529 P.2d 582, 118 Cal. Rptr. 158 (1974)	Land use / zoning	Conserve	4-3	Joined dissent
6.	California v. Superior Court of Lake County, 29 Cal.3d 210, 172 Cal. Rptr. 696, 625 P.2d 239 (1981).	Public trust	Conserve	4-2	Wrote dissent

INDEX OF ENVIRONMENTAL DECISIONS, Cont'd.

Number	Case name and citation	Subject matter	Court's Decision	Vote	Clark's Position
7.	California v. Superior Court of Placer County, 29 Cal.3d 240, 172 Cal. Rptr. 713, 625 P.2d 256 (1981)	Public trust	Conserve	4-2	Wrote dissent
8.	City of Berkeley v. Superior Court of Alameda, 26 Cal.3d 515, 606 P.2d 362, 162 Cal. Rptr. 327 (1980)	Public trust	Conserve	4-3	Wrote dissent
9.	City of San Jose v. Superior Court of Santa Clara County ["Lands Unlimited"], 12 Cal.3d 447, 525 P.2d 701, 115 Cal. Rptr. 797 (1974)	Nuisance	Develop	4-3	Wrote majority opinion
10.	County of Los Angeles v. Berk, 26 Cal.3d 201, 605 P.2d 381, 161 Cal. Rptr. 742 (1980).	Recreational access	Conserve	6-1	Wrote dissent
11.	HFH, Ltd. v. Superior Court of Los Angeles County, 15 Cal.3d 508, 542 P.2d 237, 125 Cal. Rptr. 365 (1975), cert. denied, 425 U.S. 964 (1976).	Land use / zoning	Conserve	6-1	Wrote dissent
12.	Metromedia, Inc. v. City of San Diego, 26 Cal.3d 848, 610 P.2d 407, 164 Cal. Rptr. 510 (1980).	Billboards	Conserve	6-1	Wrote dissent

INDEX OF ENVIRONMENTAL DECISIONS, Cont'd.

Number	Case name and citation	Subject matter	Court's Decision	Vote	Clark's Position
13.	No Oil, Inc. v. City of Los Angeles, 13 Cal.3d 68, 529 P.2d 66, 118 Cal. Rptr. 34 (1974).	Oil drilling	Conserve	4-3	Wrote dissent
14.	San Diego Building Contractors Association v. City Council of the City of San Diego, 13 Cal.3d 205, 529 P.2d 570, 118 Cal. Rptr. 146 (1974).	Land use / zoning	Conserve	4-3	Joined dissent
15.	San Diego Coast Regional Commission for San Diego County v. See the Sea, Ltd., 9 Cal.3d 888, 513 P.2d 129, 109 Cal. Rptr. 377 (1973).	Coastal development	Develop	4-3	Wrote majority opinion
16.	Sierra Club v. City of Hayward, 28 Cal.3d 840, 623 P.2d 180, 171 Cal. Rptr. 619 (1981).	Land Conservation Act	Conserve	4-2	Joined dissent
17.	Sweetwater Valley Civic Association v. City of National City, 18 Cal.3d 270, 555 P.2d 1099, 133 Cal. Rptr. 859 (1976).	Community Redevelopment Law	Conserve	7-0	Wrote majority opinion
18.	Woodland Hills Residents Association, Inc. v. City Council of the City of Los Angeles ["Woodland Hills I"], 23 Cal.3d 917, 593 P.2d 200, 154 Cal. Rptr. 503 (1979)	Attorney fees	Conserve	4-3	Wrote dissent

CASE SUMMARIES

1. Agins v. City of Tiburon, 24 Cal.3d 266, 598 P.2d 25, 157 Cal. Rptr. 372 (1979).

Subject matter:	Land use / zoning (Inverse condemnation)
Outcome:	Pro-conservation: 6-1 (Clark dissenting)
Court's holding:	A landowner in California's wealthy Marin County may not force the city to compensate him for the decline in value of his property when the city zones his land for low density development. The threat of such damage actions would chill the efforts of local government to carefully manage development.
Clark's view:	Persons objecting to harsh zoning regulations should be able not merely to have them set aside, but to force the government to pay compensation--even when other economically viable uses for the property are permitted.

2. Arnel Development Co. v. City of Costa Mesa, 28 Cal.3d 511, 620 P.2d 565, 160 Cal. Rptr. 904 (1980)

Subject matter:	Land use / zoning (Hearing requirement)
Outcome:	Pro-conservation: 5-2 (Clark dissenting)
Court's holding:	When the people of a community enact a zoning measure by initiative, the fact that there has been no hearing does not in itself deprive affected landowners of due process. It does not matter whether the initiative dealt with a general zoning plan or one aimed specifically at a proposed development. The affected developer is free to vote and to campaign, but he may not take away the people's ultimate right to decide the matter.
Clark's view:	The people should be denied the power to block specific development projects through the initiative process. Only general zoning plans should be enacted legislatively. Cite-specific decisions should be made only through an adjudicatory hearing.

3. Associated Home Builders of the Greater Eastbay, Inc. v. City of Livermore, 18 Cal.3d 582, 577 P.2d 473, 135 Cal. Rptr. 41 (1976)

Subject matter:	Land use / zoning (Hearing requirement)
Outcome:	Pro-conservation: 5-2 (Clark dissenting)
Court's holding:	The people of a community concerned that uncontrolled growth may strain city services, may chose to prohibit the issuance of new building permits until educational, water supply, and sewage disposal standards are met. This right to govern by initiative, secured under the Constitution of California, is not limited by a statute requiring that zoning ordinances be preceded by notice and hearing. The legislature never intended the notice and hearing requirement (which is applicable to city council action) to apply to initiatives.
Clark's view:	A state statute requiring that municipal zoning decisions be made only after notice and hearing should be applied to public initiatives, even though this would result in making action by initiative impossible.

4. Bozung v. Local Agency Formation Commission of Ventura County, 13 Cal.3d 263, 529 P.2d 1017, 118 Cal. Rptr. 249 (1975).

Subject matter:	Environmental Impact Report (California Environmental Quality Act)
Outcome:	Pro-conservation: 6-1 (Clark dissenting)
Court's holding:	Approval by a local agency of a city's plan to annex property intended for future development is a "project" within the meaning of the California Environmental Quality Act, thus requiring that an Environmental Impact Report be prepared prior to such approval.
Clark's view:	An impact report should be required only when a public agency "directly" approves the development or construction. Here the agency merely approved annexation expected to lead to development, not the development itself.

5. Builders Association of Santa Clara—Santa Cruz Counties v. Superior Court of Santa Clara County, 13 Cal.3d 225, 529 P.2d 582, 118 Cal. Rptr. 158 (1974).

Subject matter:	Land use / zoning (Hearing requirement)
Outcome:	Pro-conservation: 4-3 (Clark dissenting)
Court's holding:	In response to serious overcrowding, the citizens of San Jose adopted an initiative providing a two year moratorium on changes in zoning which would allow additional development unless the developer provides an adequate alternative to permanent school construction. The court turned down a challenge to the measure, finding no constitutional impediment to the enactment of zoning measures by initiative.
Clark's view:	A lengthy zoning "freeze" may not be adopted by the people through the initiative process, because to do so would interfere with the due process rights of persons wishing to provide additional development.

6. California v. Superior Court of Lake County, 29 Cal.3d 210, 172 Cal. Rptr. 696, 625 P.2d 239 (1981).

Subject matter:	Public trust doctrine (Shoreline of inland lakes and streams)
Outcome:	Pro-conservation: 4-2 (Clark dissenting)
Court's holding:	The state of California has a public trust interest in lands between the high and low water mark along the shoreline of Clear Lake. Consequently, marshlands may not be filled in and developed in a manner which impairs the use of these lands by the public for recreation, commerce, and fisheries.
Clark's view:	The public trust doctrine has traditionally protected only tide and submerged lands, and does not extend to the shoreline of inland streams and lakes. It is the policy of the state of California "to encourage reclamation and farming and residential use of these properties."

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7. California v. Superior Court of Placer County, 29 Cal.3d 240, 172 Cal. Rptr. 713, 625 P.2d 256 (1981).

Subject matter:	Public trust doctrine (Shoreline of inland lakes and streams)
Outcome:	Pro-conservation: 4-2 (Clark dissenting)
Court's holding:	In this companion case to Lake County the court recognized California's public trust in the shoreline of Lake Tahoe.
Clark's view:	The state should be "estopped" or prevented from asserting its public trust to these lands because "thousands . . . will suffer 'great injustices,' clearly outweighing the public trust."

8. City of Berkeley v. Superior Court of Alameda, 26 Cal.3d 515, 606 P.2d 362, 162 Cal. Rptr. 327 (1980).

Subject matter:	Public trust doctrine (Termination of trust)
Outcome:	Pro-conservation: 4-3 (Clark dissenting)
Court's holding:	Tidelands and submerged lands in San Francisco Bay granted to private parties pursuant to a nineteenth century legislative act conveyed title subject to a public trust for commerce, navigation, fishing, and related public uses. Those properties which are still undeveloped remain subject to the trust, and may not be developed in a manner which interferes with these public uses.
Clark's view:	The legislature is free to determine that trust purposes are best accomplished by promoting the total development of the shoreline, and may therefore choose to terminate the public trust. Such a decision was made by the California legislature of 1868-70. Consequently, lands transferred pursuant to that action passed free of any burden to serve the public trust.

9. City of San Jose v. Superior Court of Santa Clara County ["Lands Unlimited"], 12 Cal.3d 447, 525 P.2d 701, 115 Cal. Rptr. 797 (1974)

Subject matter:	Nuisance (Class action for inverse condemnation)
Outcome:	Pro-development: 4-3 (Clark with majority)
Court's holding:	Residents living near the San Jose airport brought a class action to recover damages resulting from airport noise. Judge Clark, writing for the majority, held that the injured residents could not maintain their suit as a class because they had "insufficient community of interest." Because some persons may be more harmed by the noise than others, each must bring a separate lawsuit.
Minority holding:	While it is clear that the damages suffered by a homeowner are different that those of a parking lot operator, the action could still be maintained simply by dividing the class into various subclasses--residences, stores, etc. While the majority speaks of protecting the rights of class members, its decision in effect destroys what may be the only efficient means of redress.

10. County of Los Angeles v. Berk, 26 Cal.3d 201, 605 P.2d 381, 161 Cal. Rptr. 742 (1980)

Subject matter:	Recreational access (Prescriptive easement)
Outcome:	Pro-conservation: 6-1 (Clark dissenting)
Court's holding:	When a private, undeveloped shoreline is used freely by the thousands of members of the public over a period of several decades for a variety of recreational purposes and is maintained at public expense, a public easement for recreation may arise.
Clark's view:	California case law providing for the creation of public rights to recreational access should be overturned.

11. MFH, Ltd. v. Superior Court of Los Angeles County, 15 Cal.3d 508, 542 P.2d 237, 125 Cal. Rptr. 365 (1975), cert. denied, 425 U.S. 964 (1976).

Subject matter:	Land use / zoning (Inverse condemnation)
Outcome:	Pro-conservation: 6-1 (Clark dissenting)
Court's holding:	Zoning restrictions which reduce, but do not eliminate, the value of property do not entitle the landowner to collect from the government for the difference in value. Land use controls involve recriprocal benefits and burdens. Landowners who reap to themselves the benefits of restrictive zoning on other's property will not be heard to complain that controls may apply to them as well.
Clark's view:	Any restriction on new development which substantially reduces the potential economic value of land, even if other viable uses are available, should require that the people pay the affected landowner for the value of the land had it been developed.

12. Metromedia, Inc. v. City of San Diego, 26 Cal.3d 848, 610 P.2d 407, 164 Cal. Rptr. 510 (1980)

Subject matter:	Billboard ban (Freedom of speech)
Outcome:	Pro-conservation: 6-1 (Clark dissenting)
Court's holding:	The improvement of the city's appearance and the elimination of traffic hazards are legitimate purposes of government. A San Diego ordinance banning offsite billboards is reasonably related to these goals, and therefore within the city's authority. The U.S. Supreme Court has resolved squarely that the prohibition of off-site billboards does not violate the First Amendment.
Clark's view:	Because "the outdoor sign or symbol is a venerable medium for expressing . . . commercial ideas [and has] played a prominent role throughout American history," it's commercial use should be protected under the First Amendment. The rights of those who cannot afford other forms of advertising should be weighed against the public's desire for an esthetically pleasing environment. (The U.S. Supreme Court decision on point was dismissed as a mere "one-line Supreme Court order.")

13. No Oil, Inc. v. City of Los Angeles, 13 Cal.3d 68, 529 P.2d 66, 118 Cal. Rptr. 34 (1974)

Subject matter:	Offshore oil drilling (California Environmental Quality Act)
Outcome:	Pro-conservation: 4-3 (Clark dissenting)
Court's holding:	The city council's failure to prepare a written determination that approval of an oil drilling test project would have no significant impact on the environment violated the California Environmental Quality Act. Without such a written determination, the court cannot adequately review the soundness of the agency's determination.
Clark's view:	The city council should not be required even to write a negative declaration of environmental impact unless it can be shown that the activity will result in a "serious or major disturbance to an environmental resource."

14. San Diego Building Contractors Association v. City Council of the City of San Diego, 13 Cal.3d 205, 529 P.2d 570, 118 Cal. Rptr. 146 (1974)

Subject matter:	Land use / zoning (hearing requirement)
Outcome:	Pro-conservation: 4-3 (Clark dissenting)
Court's holding:	The people of San Diego my adopt by initiative a height limitation on construction along the city's coastline. Affected landowners may not void the rule on the basis that they were denied a hearing. The due process right to a hearing extends only to adjudications, not legislative action such as this.
Clark's view:	The right of the people to adopt initiatives should be limited in matters related to zoning. Property owners wishing to build taller buildings should be given individual hearings and should not be bound by such a general initiative.

15. San Diego Coast Regional Commission for San Diego County v. See the Sea, Ltd., 9 Cal.3d 888, 513 P.2d 129, 109 Cal. Rptr. 377 (1973)

Subject matter: Coastal development (California Coastal Zone Conservation Act)

Outcome: Pro-development: 4-3 (Clark with majority)

Court's holding: The people of California adopted by initiative the Coastal Conservation Act which required a special permit of "any person wishing to perform any development" along the state's shores after February 1, 1973. The act, however, exempted those projects begun before April 1, 1972. Judge Clark, writing for the 4-3 majority, expanded this grandfather provision to exempt any development commenced right up to the February 1, 1973 deadline. The term "wishing to perform," said Judge Clark, implied that persons actually performing by that date didn't need a permit. Moreover, the extension of the grandfather clause was justified on public policy grounds, because "such interference with construction in progress, tantamount to a moratorium [until a permit could be obtained], would result in serious economic dislocations."

Minority opinion: The minority was "at a loss to comprehend how the [grandfather clause] can be interpreted in this strained manner [ignoring the explicit April 1, 1972, deadline and substituting its own February 1, 1973, deadline]."

16. Sierra Club v. City of Hayward, 28 Cal.3d 840, 623 P.2d 180, 171 Cal. Rptr. 619 (1981)

Subject matter: Land Conservation Act (Land preservation contracts)

Outcome: Pro-conservation: 4-2 (Clark dissenting)

Court's holding: In this case the court construed the California Land Conservation Act of 1965 ("Williamson Act") which permits the owners of agricultural lands to enter into contracts with local governments providing the landowner property tax breaks in exchange for a promise not to develop the land for ten years. The court ruled that the contract could not be cancelled by the parties in order to allow development prior to the end of the ten year period simply because development becomes profitable.

Clark's view: The city council's declaration that the cancellation of the contract is in the public interest should settle the matter, for "[w]e cannot presume that the council, as a responsible local agency, is insensitive either to agriculture or to esthetics."

17. Sweetwater Valley Civic Association v. City of National City, 18 Cal.3d 270, 555 P.2d 1099, 133 Cal. Rptr. 859 (1976)

Subject matter:	Scope of redevelopment authority (California's Community Redevelopment Law)
Outcome:	Pro-conservation: 7-0 (Clark with majority)
Court's holding:	(This was the single case in which Judge Clark took the "pro-conservation" side. Indeed, all the justices did.) The court held that the special powers available under state statute for the redevelopment of "blighted" urban areas could not be employed to facilitate the conversion of a golf course into a housing and commercial development.

18. Woodland Hills Residents Association, Inc. v. City Council of the City of Los Angeles ["Woodland Hills I"], 23 Cal.3d 917, 593 P.2d 200, 154 Cal. Rptr. 503 (1979)

Subject matter:	Attorney fees (Statute for public interest litigation)
Outcome:	Pro-conservation: 4-3 (Clark dissenting)
Court's holding:	Environmental and landowner groups successfully challenging the planning commission's approval of a proposed new subdivision are entitled to collect attorney fees under a California statute authorizing such fees for public interest litigation.
Clark's view:	Although the group challenging the development project was successful, the decision was not "important" enough to justify an award of attorney fees.

NATIONAL WILDLIFE FEDERATION, 1412 Sixteenth Street, N.W., Washington, D.C. 20036 (202) 797-6842
Office of the Executive Vice President

October 20, 1983

BY HAND

Honorable William P. Clark
Assistant to the President for
National Security Affairs
The White House
Washington, D.C. 20500

Dear Judge Clark:

As I promised in my letter to you of October 14, 1983, we have prepared the enclosed document describing a representative list of the priority issues facing the next Secretary of the Interior. This list is not meant to be exhaustive, nor is it intended to be a list of demands. Rather it is intended to provide both content and focus for the meeting we have requested. By choosing a cross-section of issues dealing with resource management, economic policy, and institutional matters, we hope to create a context for a constructive dialogue.

I look forward to discussing these at our meeting tomorrow.

Sincerely,

Jay D. Hair

JAY D. HAIR

Attachment

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

ISSUES REQUIRING ACTION

BY THE NEW

SECRETARY OF INTERIOR

OCTOBER 20, 1983

JAY D. HAIR
Executive Vice President

PATRICK A. PARENTEAU
Vice President
Resources Conservation Department

i

SUMMARY OF RECOMMENDATIONS

Coal Leasing

1. Repeal the regulatory changes in the coal leasing program, and return federal coal management to leasing based upon need for production, not the need for stockpiles.
2. Suspend planned lease sales until pre-sale planning is reviewed and brought into compliance with the requirements of the Federal Land Management and Policy Act and the National Environmental Policy Act, and new leasing targets have been established.

Coal Strip Mining

3. Bring strong enforcement actions to clean up the thousands of mines that have been unreclaimed since the strip mine law was passed in 1977, and deny new mining permits to those responsible for those unreclaimed mines until the cleanup is completed.
4. Reverse a number of changes made to the permanent program regulations, including those related to endangered species, possible mining in the National Parks, and return to approximate original contour after mining.
5. Invoke federal power (including possible assumption of direct federal regulation) in those states where strip mine programs are known by OSM to have significant problems.

Park and Refuge Acquisition

6. Accelerate acquisition of authorized areas with top priority to those tracts threatened by development.
7. Increase the administration's LWCF budget request to at least $400 million annually, the minimum amount needed to acquire critical land areas for National Wildlife Refuges, Parks, Forests and BLM Recreation Areas, and to assist states in the acquisition and development of similar areas.

Fish and Wildlife Management

8. Withdraw the new policy of opening acquired National Wildlife Refuges in the contiguous 48 states to oil and gas leasing and return to the previous policy.
9. Repeal the directive ordering expansion of economic uses on National Wildlife Refuges.
10. Reverse the present Fish and Wildlife Service policy on non-toxic shot regulations and reestablish an aggressive program to remedy this problem.
11. Expedite adoption, and implementation of strengthening amendments to the current Endangered Species Act.
12. Provide strong support for Departmental personnel involved in the review and enforcement areas.

Revisions in Hardrock Mining Regulations

13. Retain the marketability test contained within the existing hardrock mining regulations.

BLM Land Sales

14. Abandon the land sales target of 200,000 acres for FY 84 so that BLM's multiple use planning ceases to be biased against exchanges and retention of public land resources.

Wetlands Protection

15. Request at least $20 million dollars under the authority of the Wetlands Loan Act for FY 85.
16. Request increased funding for FWS habitat protection efforts.
17. Develop alternatives to the Garrison Diversion Project.
18. Reject the Sec. 404 regulations of the Clean Water Act issued by the Army Corps of Engineers on May 12, 1983.

Multiple Use Water Rights

19. Retain existing federal water rights for stock watering and other purposes.
20. Accelerate the quantification and assertion of federal water rights for multiple purposes, including fish and wildlife protection.

Federal Water Resources Policy

21. Fashion a national water policy around economic efficiency, water conservation, and water quality.
22. Support pending legislation to create a National Water Board.
23. Require all federal water projects to pass minimum economic and environmental criteria.
24. Standardize non-federal cost-sharing of future water resource development projects.
25. Recover costs of federal investments in water resource projects through user fees, pricing, and repayment schedules.

On-Shore Oil and Gas Leasing

26. Place an immediate priority on research into the potential impacts of oil and gas development, with a particular emphasis on the cumulative impacts of development.
27. Direct the BLM to review the potential for cumulative environmental impacts before granting any oil or gas leases or approving any permits, including exploration permits.

OCS Development

28. Revise the five-year OCS Leasing Schedule so that less acreage is offered.

29. Drop sales in environmentally sensitive frontier areas from the schedule.
30. Lengthen the time between re-offerings, if any, in frontier areas.

DOI Budget

31. Request that at least $385 million be appropriated for the Fish and Wildlife Service in FY 85 with additional funds (in excess of FY 84) allocated for habitat protection, research (including the Cooperative Wildlife and Fishery Units and the Research Laboratories), and for endangered species programs.
32. Maintain existing fish hatcheries and other fisheries facilities in the FY 85 budget request.
33. Return funding for the four renewable resource programs (range management, soil, water and air, wildlife management, and recreation) to previous levels (50 percent of the total BLM budget).

BLM Rangeland Management

34. Reject the proposed Cooperative Management Agreement program as well as other changes in BLM's grazing regulations, which would weaken management of federal rangeland.

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COAL LEASING

The Department of the Interior has radically re-written the regulations governing coal leasing, and intends to lease up to 14 billion tons of coal in an already glutted market in the next year.[1/]

The Department's new leasing regulations abandon principles of sound resource management, and were implemented without an adequate review of their environmental impact. Also, they change the Department's basic directive of coal leasing based on actual demand to one based on leasing "to meet industry's demand for reserves." This fundamental change has made federal coal leasing subject to industry's desire to stockpile and speculate on public coal, instead of focusing on prudent management of our resources. The new regulations also eliminate public input into key leasing decisions, removing standards ensuring adequate pre-lease planning, and undermining multiple-use management.[2/]

These regulations are the foundation for the Department's plans to lease up to 14 billion tons of new coal in the next 12 months.

1/Response of David Houston, Deputy Assistant Secretary, Land and Water Resources, June 2, 1983, to questions submitted by the Subcommittee on Mining, Forest Management and Bonneville Power Administration, U.S. House of Representatives.

2/Revisions to 43 CFR 4300, published by the Department on July 30, 1982, 47 Fed. Reg. 33114 et seq. (July 30, 1982).

Areas will be offered for lease which threaten valuable resources, including critical wildlife habitat, rangeland that is difficult and costly to reclaim, rich archaeological sites, and unique fossil beds. Yet last year, only 104 million tons of coal were produced from the more than 17 billion tons recoverable from existing federal leases. When less than one percent of already leased coal is being produced, there is little justification for leasing up to 14 billion tons more. These plans will simply turn over another million acres of public lands to coal speculators decades before the coal is needed, and at a fraction of its fair market value.

The issue of ensuring the receipt of fair market value for federal coal leases is already being addressed by the Commission on Fair Market Value Policy for Federal Coal Leasing, which is expected to submit its findings to Congress by February, 1984. However, a return to multiple-use principles in planning for lease sales and basing leasing decisions upon demand for coal production are as important to sound resource management as ensuring receipt of fair market value, and demand immediate attention.

Recommendations:

1. Repeal the regulatory changes in the coal leasing program, and return federal coal management to leasing based upon need for production, not the need for stockpiles; and,

2. Suspend planned lease sales until pre-sale planning is reviewed and brought into compliance with the requirements of the Federal Land Management and Policy Act and the National Environmental Policy Act, and until new leasing targets have been established.

COAL STRIP MINING

The Surface Mining Control and Reclamation Act of 1977 requires the Department of the Interior to protect the nation from the environmental impacts of coal strip mining. Under that law, individual states may assume responsibility for strip mining within their boundaries ("assume primacy") by submitting a program to the Department for its approval. In determining the adequacy of a state's program, the Secretary of the Interior must, among other things, measure that program against a series of minimum environmental standards ("permanent program regulations") that have been issued by the DOI. Once a program is approved, the Department must continue to oversee the conduct of that program to assure compliance with the Act and the permanent program regulations. If a state program violates the law, Interior is required to bring federal power to bear against that state, and the Department's inspectors must directly take enforcement action against violators of the law if a state fails to act.

Under the current administration, all of these mandates of the surface mining law have been ignored. Interior rewrote 90 percent of the permanent program regulations, removing many important environmental design criteria. For example, protections for state listed endangered species were deleted, the rights of companies to mine on inholdings within units of the National Park System were expanded, and major loopholes were created in the requirement that land be restored to its approximate original contour after mining.

At the same time, federal enforcement of the surface mining law has all but collapsed. Interior failed to take action against over 1700 mines that did not stop illegal mining activity after being ordered to do so, and failed to collect $44 million in penalties. Similarly, despite a court order mandating that it do so, the Department failed to consider assessing penalties against individual corporate executives in 2097 instances in which their companies were ordered to cease illegal mining activity. Nor did the Department consider assessing several thousand penalties against officials whose companies were issued notices of serious mining law violations.

Finally, the Office of Surface Mining (OSM) is aware of numerous problems with individual state strip mining programs but has failed to take strong action to deal with those situations. OSM records document severe problems in at least 16 states, especially in Utah, Tennessee, and Virginia. For example, over a period of one year in Tennessee, 160 of 164 mining permits were unlawfully issued.

29-035 O—84——19

Recommendations:

3. Bring strong enforcement actions to clean up the thousands of mines that have been unreclaimed since the strip mine law was passed in 1977, and deny new mining permits to those responsible for the unreclaimed mines until the cleanup is completed;
4. Reverse a number of changes made to the permanent program regulations, including those related to endangered species, possible mining in the National Parks, and return to approximate original contour after mining; and,
5. Invoke federal power (including possible assumption of direct federal regulation) in those states where strip mine programs are known by OSM to have significant problems.

PARK AND REFUGE ACQUISITION

Shortly after the current Administration took office, the Department of the Interior (DOI) proposed a complete moratorium on federal land purchases from the Land and Water Conservation Fund (LWCF), except for emergency and court ordered purchases. The Fund, authorized at $900 million annually, is the primary source of monies for natural area and recreational land acquisitions for the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), the bureau

of Land Management (BLM), and the U.S. Forest Service. Purchases within these agencies include private inholdings in already established National Parks, habitat for endangered species, and Recreation Areas for BLM and the Forest Service.

To implement its policy, the Interior Department requested the following amounts for the LWCF: $40 million for FY 82, $70 million for FY 83 and $65 million for FY 84. Congress has consistently rejected Interior's proposals by increasing appropriations to (respectively) $180 million, $200 million and $230 million for Fiscal '82, '83, and '84. Despite the clear Congressional intent to continue land acquisitions, the Interior Department has failed to obligate LWCF monies in a timely fashion. For example, the National Park Service had obligated only 59.5 percent of the $168 million originally available to it during FY 83. The result of this slowdown is likely to be (1) higher land costs to purchase already authorized acquisitions; (2) land resources lost to incompatible development, such as mining; and (3) willing sellers left in a state of limbo -- unable to sell to the federal government and unable to find private purchasers because of the threat of ultimate purchase by the government.

Recommendations:

6. Accelerate acquisition of authorized areas with top priority to those tracts threatened by development; and,

7. Increase the administration's LWCF budget request to at least $400 million annually, the minimum amount needed to acquire critical land areas for National Wildlife Refuges, Parks, Forests and BLM Recreation Areas, and to assist states in the acquisition and development of similar areas.

FISH AND WILDLIFE MANAGEMENT

The management of much of the nation's wildlife is a primary responsibility of the Department of the Interior. The Department, in overseeing a vast federal estate of grazing lands, reservoirs, Parks, and Refuges, must protect endangered species, manage migratory waterfowl, and generally care for the nation's wildlife.

For the past two and a half years, DOI has subjugated responsible management of these resources to development and commercialization. Wildlife management professionals have been forced to make decisions based on politics and polemics rather than scientific research.

For example, the National Wildlife Refuge System -- areas dedicated to the protection of wildlife -- has become the target for numerous policy changes. In spite of a recent DOI report showing over 7000 specific threats to Refuges, ranging from chemical spills to overcrowding, the Interior Department is pursuing the expansion of a multitude of economic uses within the Refuge System.

The most serious change in policy is the reversal of a 25-year-old virtual moratorium on oil and gas leasing within National Wildlife Refuges throughout the lower 48 states. The decision to open one million acres of Refuges to oil and gas leasing was done without any public notice of the Department's intention to do so, without any opportunity for public comment, without any environmental analysis, and in violation of the Department's own rules and previous policies.

Another example is the reversal of a long-standing DOI policy that non-toxic shot be used in waterfowl hunting on Refuges wherever there is a potential for lead poisoning of wildlife.

In addition there has been a general practice of not allowing DOI employees to perform their duties and provide their best professional opinions openly so that the public has access to all available information on wildlife management issues.

Recommendations:

8. Withdraw the new policy of opening acquired National Wildlife Refuges in the contiguous 48 states to oil and gas leasing and return to the previous policy;
9. Repeal the directive ordering expansion of economic uses on National Wildlife Refuges;

10. Reverse the present Fish and Wildlife Service policy on non-toxic shot regulations and reestablish an aggressive program to remedy this problem;
11. Expedite adoption and implementation of strengthening amendments to the current Endangered Species Act; and,
12. Provide strong support for DOI personnel to be involved in the review and enforcement areas.

HARD ROCK MINING REGULATIONS

Federal regulations allow miners in search of copper, zinc, gold, uranium, and many other non-fuel minerals to enter and explore most public lands. If a prospector discovers a valuable ore, he can stake ("locate") a claim on the deposit. The miner is then free to dig and sell the ore. If he wishes, the miner can also acquire title to the land (a "patent") by satisfying certain requirements and paying a nominal fee.

The Department of the Interior is drafting significant changes in the rules governing the development of mines on public lands. The present regulations require that miners prove their claims can turn a profit, and that the costs of environmental compliance be included in the calculation (the "marketability test"). However, the Department is planning to drop the marketability test and return to a weaker and previously discredited "prudent man" criterion, whereby companies need only show that a prudent person would invest time and money on a claim with the expectation of developing a valuable mine.

By reducing the standard for locating a claim, the Department will encourage staking mineral claims for speculative purposes. In addition, by failing to consider whether projected income will exceed the costs of extraction and environmental mitigation, irreparable harm may be done to environmentally unsuitable tracts with little hope of the miner repairing the damage.

Recommendation:

13. Retain the marketability test contained within the existing hardrock mining regulations.

BLM LAND SALES

On February 25, 1982, President Reagan issued Executive Order 12348, creating the Property Review Board (PRB) and launching the "Asset Management Program." The Bureau of Land Management subsequently identified approximately 2.5 million acres of federal land suitable for disposal. For FY 84 BLM has proposed a land sales target of 200,000 acres nationwide (excluding Alaska).[3/]

3/ 1984 Proposed Annual Work Plan Directives, 4212 Non Energy Realty - Instruction Memo No. 83 - Oct. 3, 1983.

On July 25, the Department of the Interior notified Western governors that the Department's land sales program would no longer be associated with the PRB, but would be conducted strictly under the Department's authority. DOI will be held solely accountable for the privatization of BLM lands should these land disposal efforts prove successful.

The land disposal program is a short-sighted effort to sell public assets for a one-time economic gain, without regard to exchange or transfer, or other resource values. For example, some of BLM's "isolated" holdings -- prime candidates for disposal under current land sales directives -- are considered islands of important wildlife habitat surrounded by intensely developed private lands.

The sale of so-called "isolated and hard to manage" public lands is not always in the best interest of the BLM or the public. Equal consideration must be given to the BLM's other responsibilities in order to promote conservation.

Recommendation:

14. Abandon the land sales target of 200,000 acres for FY 84 so that BLM's multiple use planning ceases to be biased against exchanges and retention of public land resources.

WETLANDS PROTECTION

The nation's wetlands are an enormously valuable natural and economic resource. Wetlands improve water quality, reduce flooding, limit shoreline erosion, and provide food and shelter for many species of fish, shellfish and wildlife. The nation's multi-billion dollar recreational and commercial fishing industry depends on the fish and shellfish produced in wetlands. Nevertheless, our wetlands are disappearing at an alarming rate. We have already lost over 50 percent of our wetlands and continue to lose them at a rate of 458,000 acres per year.[4/] In the upper Midwest alone, 50 percent of the prairie potholes were lost by 1950, with losses continuing at 48,000 acres per year.[5/]

Much of the destruction of wetlands is fostered by federal subsidies or actions such as support for the Garrison Diversion Project by the Bureau of Reclamation. (See "Federal Water Resources Policy," p. 15.) At the same time, much of the federal responsibility for wetlands protection also is contained within the Department.

4/ Status and Trends of Wetlands and Deepwater Habitats in the Coterminous United States, 1950's to 1970's, U.S. Department of the Interior, Fish and Wildlife Service, Office of Biological Services (1982).

5/ Statement of Robert A. Jantzen before the House Committee on Merchant Marine and Fisheries, Subcommittee on Fisheries and Wildlife Conservation and the Environment, November 20, 1981.

Of late, DOI has taken many steps that encouraged the loss of wetlands and few that resulted in wetlands protection. Secretary Watt refused to request funds already authorized under the Wetlands Loan Act to purchase wetlands essential to migratory bird conservation. Within the Fish and Wildlife Service wetland acquisition offices in North Dakota have been closed and habitat protection functions severely reduced.

Finally, DOI supports severely reduced Army Corps of Engineers regulations that would remove the majority of protection over wetlands under Section 404 of the Clean Water Act despite the opposition of 33 states and of William Ruckelshaus, Administrator of the Environmental Protection Agency.

Recommendations:

15. Request at least $20 million dollars under the authority of the Wetlands Loan Act for FY 1985;
16. Request increased funding for FWS habitat protection efforts;
17. Develop alternatives to the Garrison Diversion Project; and,
18. Reject the Sec. 404 regulations of the Clean Water Act issued by the Army Corps of Engineers on May 12, 1983.

MULTIPLE USE WATER RIGHTS

In our Western states, water is not just an amenity; it is a lifeline. Precious supplies are allocated under an intricate system of state and federal water rights -- a system which ensures that all users receive their fair share. The central theme of this system has been multiple use. A single resource is carefully balanced to support not just agriculture and industry, not just towns and cities, not just fishing and hunting, not just endangered species and wilderness, but all of these needs.

This is no small task. It demands an active commitment to the assessment of needs, the balancing of competing uses, and, most importantly, the quantification and assertion of rights to water on behalf of the people of the United States.

Sadly, DOI has taken just the opposite approach. In the name of "states rights," it has abdicated its responsibility to manage the public lands for all people. Precious water holes on public grazing land -- which in the past supported not just cattle, but deer, elk, pronghorn, sage grouse, and birds of prey -- have been turned over to private ranchers who have fenced out wildlife.[6/] DOI officials who once managed the nation's lands with an eye to future generations have been instructed to stand by while, under state law,

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6/Memorandum from Director, Bureau of Land Management, to Secretary, December 3, 1981. Subject: BLM Water Rights - Stockwatering.

private developers stake out new claims to water on public lands.[7/] Far-sighted action is needed to restore balance before the last drop is drained from our public rivers and streams.

Recommendations:

19. Retain existing federal water rights for stock watering and other purposes; and,
20. Accelerate the quantification and assertion of federal water rights for multiple purposes, including fish and wildlife protection.

FEDERAL WATER RESOURCES POLICY

America is blessed with bountiful water supplies -- about 530 trillion gallons of useable fresh water in lakes, rivers, and streams per year. In contrast, we use only about 110 billion gallons per year, 82 percent of it for agricultural irrigation. Domestic and commercial consumption represents only about eight percent of our water budget. Nevertheless, water shortages exist, primarily because water is not always available when and where it is needed and because water is generally sold below its fair market value.

7/Solicitor's Opinions of Sept. 11, 1981, and Feb. 16, 1983.

The Bureau of Reclamation (BuRec) in the Department of the Interior and other federal agencies have addressed water resources problems by building large physical structures to reduce the risks of droughts and floods, and to bring water and power to distant markets. However, much of our federal water investment has been demonstrated to be 1) economically inefficient, 2) inequitable in its distribution of water costs and benefits, and 3) unnecessarily destructive to the environment. Coordinated action is vitally needed to make sure our federal water investments are efficient, equitable, and compatible with environmental goals. Because most river basins overlap state boundaries, management, planning, and technical assistance on a federal level is essential.

This Administration, to its great credit, has tackled the thorny issue of cost and benefit distribution by supporting the application of "user fees" to federally-supported projects. With this program, non-federal interests would be required to pay a significant share of project costs. These measures should reduce the number of marginal projects that are politically-motivated -- projects that are essentially a waste of the taxpayers' money. Unfortunately, the Department of the Interior frequently undermined attempts to institute these fiscal reforms for all federal water projects. For example, less than three percent of the $1.1 billion cost of the proposed Garrison Diversion project would be paid for by its intended beneficiaries.

The new Secretary must resist the special interests demanding continued federal subsidization of water projects by using his power

to help recover costs of federal investments in water resources development.

Recommendations:

21. Fashion a national water policy around economic efficiency, water conservation, and water quality;
22. Support pending legislation to create a National Water Board;
23. Require all federal water projects to pass minimum economic and environmental criteria;
24. Standardize non-federal cost-sharing of future water resource development projects; and,
25. Recover costs of federal investments in water resource projects through user fees, pricing, and repayment schedules.

ON-SHORE OIL AND GAS LEASING

The Department of the Interior has vastly accelerated the leasing of lands for oil and gas development, particularly in the lower 48 states. In the last three fiscal years, BLM has leased more than 100 million acres of public land for oil and gas development, nearly doubling the total acreage under lease before FY 80.[8/]

[8/] Division of Fluid Leasable Minerals, BLM, personal communication October 14, 1983.

Virtually all of this leasing proceeded without adequate analysis of the potential cumulative impacts of oil and gas development. In general, it was assumed that wider impacts were insignificant, and that lease stipulations would be sufficient to protect the environment from lease-specific impacts.

This conclusion was based more on a lack of information than on sound scientific understanding of potential impacts. Recent analyses are now indicating that area-wide and cumulative impacts of development may well be significant, particularly to wildlife populations.[9/] However, major potential impacts are still poorly understood, as shown by the Overthrust Industrial Association study.[10/]

Recommendations:

26. Place an immediate priority on research into the potential impacts of oil and gas development, with a particular emphasis on the cumulative impacts of development; and,

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9/ Draft Environmental Impact Statement, Riley Ridge Natural Gas Project, May, 1983, Department of the Interior, Bureau of Land Management.

10/ Letter dated August 19, 1983, from Larry Stromberg, Larry Seeman Associates, Inc., to Mr. Chuck McLean, Denver Research Group, regarding data gaps in oil and gas development impacts on wildlife.

27. Direct the BLM to review the potential for cumulative environmental impacts before granting any oil or gas leases or approving any permits, including exploration permits.

OCS DEVELOPMENT

The Department's existing Outer Continental Shelf (OCS) leasing plan will offer the entire OCS for lease over the next five years, totalling almost one billion acres. Oil development on some of that acreage would conflict with important fisheries, wildlife, and recreational values. In particular, a number of states and environmental groups have protested the offering of those acres that have high renewable resource values, such as fishing, and low potential oil and gas deposits. While some of those concerns have been taken into account through lease stipulations, more pre-sale balancing of environmental considerations is necessary.

There are four distinct advantages to modifying the present five-year schedule:

- Higher bids would be obtained since the excessive acreage now being offered does not receive bids that would otherwise be expected, because of the current oil and gas glut. Delayed bidding should assure a fair market return

to the U.S. Treasury and therefore to the American public. In addition, reducing the acreage offered in individual sales would increase competition and bids.

- o Slowing the pace of leasing and reducing the acreage offered would facilitate better environmental assessment and consultation with the states, resulting in sales with fewer conflicts.

- o Leasing in sensitive frontier areas could be delayed while additional data was obtained.

- o Additional time between re-offerings in frontier areas would allow an assessment of the environmental impacts of prior leasing, and for stipulating any adjustments, if necessary.

Recommendations:

28. Revise the five-year OCS Leasing Schedule so that less acreage is offered;
29. Drop sales in environmentally sensitive frontier areas from the schedule; and,
30. Lengthen the time between re-offerings, if any, in frontier areas.

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DOI BUDGET

The Department of the Interior has the dual responsibility to conserve and to develop natural resources. Historically, the Department has done this by providing a balance in funding and staffing for the conservation and development segments of the agency. However, current DOI policy has upset this balance by selectively cutting budgets for renewable resource management, while enhancing those for resource development.

Congress attempted to restore this balance by appropriating more money than requested by the Interior Department. DOI requested a total of $3.63 billion for FY 84, but the House and Senate have agreed on $3.95 billion for next year, nine percent more than DOI's request. Congress specifically acknowledged the imbalance in appropriations by boosting National Park Service and Fish and Wildlife Service budgets by 14.9 percent and 32.5 percent respectively.

Even within individual agencies, budgets have been shifted to enhance development, lessening the conservation review and monitoring processes. Within FWS, this translates into fewer funds for permit and license enforcement, a reduced emphasis on water development research and review, reductions in endangered species listings and protection, and less involvement with related state programs.

There are numerous examples of policy changes resulting from the Department's budget allocations. For one, DOI proposed to eliminate funding for approximately one-half of our existing national fish hatcheries. Another example: Whereas previous administrations have sought to eliminate lead poisoning of waterfowl, bald eagles, and other wildlife, especially on National Wildlife Refuges, this Administration has included provisions in its annual budget submissions that greatly hamper the ability of FWS to control this pervasive problem. NWF requests that you take positive steps to return balance to the Interior Department budget process and that you not make major policy changes through the budget process.

Recommendations:

31. Request that at least $385 million be appropriated for the Fish and Wildlife Service in FY 85 with additional funds (in excess of FY 84) allocated for habitat protection, research (including the Cooperative Wildlife and Fishery Units and the Research Laboratories), and for endangered species programs;
32. Maintain existing fish hatcheries and other fisheries facilities in the FY 85 budget request; and,
33. Return funding for the four renewable resource programs (range management, soil, water and air, wildlife management, and recreation) to previous levels (50 percent of the total BLM budget).

BLM RANGELAND MANAGEMENT

A wildlife habitat classification of BLM rangeland quality, conducted in 1975, indicates that about 60 percent of public land wildlife habitats are static, about 30 percent are declining, and only ten percent are improving.[11/] Degraded range condition impacts livestock, wildlife, soil, and water quality. DOI, rather than meeting its statutory obligations to manage rangelands in a manner that will protect the quality of public lands (and hopefully reverse the trend toward desertification) has chosen to adopt policies and regulations which will virtually guarantee rangeland abuse from livestock overgrazing.

Of foremost concern is a "Cooperative Management Agreement" program proposed as amendments to BLM's grazing regulations.[12/] We believe this program would unlawfully abrogate BLM's responsibility to manage the public rangelands, as stipulated in the Public Rangelands Improvement Act. The new policy would transfer public land management responsibilities to the livestock industry on significant portions of BLM land without public participation or meaningful constraints on private use of this public resource. In

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11/ BLM Range Condition Report, Prepared for the Senate Committee on Appropriations, Jan. 2, 1975.

12/ 48 Fed. Reg. 21820.

short, the proposed rule would allow the ranchers to decide how, when, where, and how much grazing will take place on the public lands without public input.

Recommendation:

34. Reject the proposed Cooperative Management Agreement program as well as other changes in BLM's grazing regulations, which would weaken management of federal rangeland.

Attachment to Testimony of Dr. Jay D. Hair

Examples of Administrative Actions Affecting Fish and Wildlife

- Reduced acquisition of critical wetlands from an average 70,000 acres per year during 1976 to 1980 to an average of fewer than 30,000 acres per year in 1981, 1982 and 1983.

- Requested $0 under the authority of the Wetlands Loan Act for FY 1982, 1983, and 1984.

- Supported the Army Corps of Engineers' proposed weakening of regulations for Section 404 of the Clean Water Act, thus abandoning DOI's stand to maintain Section 404 as a strong wetlands protection tool.

- Closed Fish and Wildlife Service (FWS) wetlands acquisition offices in North Dakota.

- Supported the Garrison Diversion project which would drain 70,000 acres of wetlands and harm 12 National Wildlife Refuges.

- Refused to exercise existing authority under the Migratory Bird Conservation Act to acquire wetlands from willing sellers in North Dakota.

- Shut down the 30-year-old FWS/National Reservoir Research Program eliminating 35 scientists and over 50 scientific studies in progress.

- Annually attempted to close down the 50-year-old FWS Cooperative Fishery and Wildlife Research Unit program which would eliminate 40% of the PhD.-level scientists in FWS.

- Annually attempted to delete or severely reduce FWS research funding for minerals mining impacts, contaminants impacts, coal operations impacts, and other research that might affect development activities on DOI lands.

- Attempted to close the FWS/Wildlife Health Laboratory in Madison, Wisconsin.

- Attempted to eliminate all Federal government research expertise in forest mammal damage control by closing the FWS Olympia, Washington, and Bend, Oregon, field stations.

- Reduced listing of endangered species from 350 during 1977-1980 to only 18 during 1981-1983 in spite of a backlog of 2,356 candidate species awaiting final consideration.

- Requested reduced funding and personnel levels for endangered species law enforcement, listing, and recovery.

- Attempted to severely curtail state endangered species programs by requesting $0 for state grants under Section 6 of the Endangered Species Act.

- Established a policy on listing of endangered species that gives priority to "higher life forms" and ignores "lesser" organisms that may be crucial to ecosystem functioning.

- Established a rule on raptor propagation that allows commercialization of endangered raptor species, such as peregrine falcons.

- Reclassified populations of Arctic peregrine falcons from endangered to threatened in direct conflict with the final FWS recovery plan recommendations for the species.

- Reversed long-established Interior Department policy on nontoxic shot regulations for waterfowl hunting by transferring this Federal responsibility to the states.

- Established a policy that is likely to eliminate use of nontoxic shot on 60 National Wildlife Refuges, thus increasing the risk of lead poisoning of thousands of migratory birds.

- Attempted to dismantle the National Fish Hatchery System by eliminating funding for approximately one-half of all hatcheries.

- Attempted to eliminate all matching grant funding to states under P.L. 89-304, the Anadromous Fish Conservation Act.

- Issued a directive to expand all "economic uses" of National Wildlife Refuges.

- Reduced federal claims to water rights on federal lands, impairing the ability of federal agencies to manage the public lands for wildlife needs.

- Established a policy to open acquired National Wildlife Refuges in the lower 48 states to extensive oil and gas leasing.

- Refused to request significant funding for refuge acquisition under the Land and Water Conservation Fund.

- Allowed the illegal intrusion of an oil and gas project into a wilderness area on a New Mexico refuge.

- Reversed Secretarial policy on Compound 1080, a highly toxic poison, thereby encouraging a return to its use.

- Refused to complete a land swap with a private developer in Ash Meadows, Nevada, which would have protected the area of greatest endemism in North America (4 listed endangered species and 23 candidate species).

- Attempted to transfer federal habitat management responsibilities for wildlife on BLM lands to the states.

- Requested major budget reductions in the renewable resource management programs of BLM.

- Reduced restrictions on overgrazing on over 80 million acres of public lands, which will result in habitat degradation.

- Traded a portion of St. Matthew Island, a wilderness area and national wildlife refuge off the coast of Alaska, for land on the Alaska mainland to allow the construction of an airfield, port and oil storage facility on the island. The development will threaten one of the largest seabird nesting colonies in the world.

- Shifted responsibility for regulating oil and gas exploration on the Arctic Wildlife Range from the Fish and Wildlife Service to the U.S. Geological Survey.

- Expanded and accelerated oil and gas leasing on the outer continental shelf (OCS), which threatens some of the nation's richest fishery regions.

- Implemented budget cuts in FWS Ecological Services program that have resulted in:

  --an increase from 19% to 27% in permits which FWS is no longer able to review due to personnel shortages.

  --only superficial FWS review of most of the remaining permits due to lack of staff to apply best technical management practice reviews.

  --the loss of 8,200 acres of bottomland hardwood wetlands in the Lower Mississippi Valley due to FWS inability to review permits.

  --failure of FWS to participate in over 200 pre-development meetings in <u>one</u> FWS region in FY 82.

  --no FWS follow-up on projects to ensure mitigation measures are carried out or to evaluate the effectiveness of recommendations.

  --significant reductions in development of and training on Habitat Evaluation procedures for FWS staff.

- Weakened the federal strip mining regulations by repealing certain standards for protecting wildlife, including standards that assured protection of state listed endangered species, required the fencing of toxic waste ponds, banned the use of persistent pesticides, and required the design of power lines to protect large birds from the threat of electrocution.

- Changed regulations to eliminate consideration of "threshold" impacts on fish and wildlife species prior to leasing of federal coal.

- Proposed for leasing federal coal tracts with critical wildlife habitat.

Senator HECHT. Thank you, Dr. Hair.

Mr. Boyd, you're next on the list.

STATEMENT OF ALAN BOYD, CHAIRMAN OF THE BOARD OF TRUSTEES, NATIONAL TRUST FOR HISTORIC PRESERVATION

Mr. BOYD. Thank you, Senator, Senator Chafee. I am delighted to have the opportunity to be here this morning and to follow the numbers game representing some 2 million Americans who identify themselves as active preservationists.

I am here this morning as chairman of the National Trust for Historic Preservation, not as an enemy, not as an extremist, but as an enthusiast who very much hopes I can be enthusiastic about the nomination of Judge Clark as Secretary of the Interior.

In that context, I should say the Interior Department has through a series of laws which were adopted by the Congress responsibilities for preservation of buildings involving not only Government property, Government agency actions, but also thousands of historic sites which are non-Government property. Those laws make up a very complex and comprehensive spate of relationships between the Federal Government, the State government, and the private sector.

They have worked very well up until Secretary Watt arrived, and his efforts have been to visciate that relationship. That has not succeeded because of the actions of the Congress spearheaded by this committee, the Interior Appropriations Committee of the Senate, and the sister committees in the House. I am hoping that Secretary Clark, if confirmed, will restore historic preservation to its relationship of having the law followed in the Department of Interior.

I do not ask him to create it at the apex of his priorities as Secretary of the Interior. All I ask is that as you advise and consent on this nomination, you do it in the context that the Congress has enacted legislation relating to preservation. The Congress has reaffirmed its interest in that. It affects millions of Americans, and the new Secretary of the Interior should follow the law. That is all we did, and we have great hopes that Secretary Clark will see it in the legal fashion.

Thank you, sir.

[The prepared statement of Mr. Boyd follows:]

National Trust for Historic Preservation

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TESTIMONY OF ALAN BOYD
CHAIRMAN OF THE BOARD OF TRUSTEES
OF THE NATIONAL TRUST FOR HISTORIC PRESERVATION
BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
AT THE CONFIRMATION
HEARINGS OF WILLIAM P. CLARK
TO BE SECRETARY OF THE DEPARTMENT OF THE INTERIOR
NOVEMBER 2, 1983

Mr. Chairman and Members of the Committee, I am Alan Boyd, Chairman of the Board of Trustees of the National Trust for Historic Preservation. I come before you today to voice the concerns and expectations of the National Trust at the appointment of William P. Clark to be Secretary of the Department of the Interior.

The Secretary of the Interior is charged by a number of federal laws with primary responsibility for programs to encourage the identification and preservation of the nation's historical, architectural and cultural heritage. Unlike the Secretary's traditional responsibilities for stewardship of federally owned resources, the historic preservation program involves many thousands of historic properties outside of federal ownership. This national program is based on a successful partnership of federal and state governments and the private sector.

Within the private sector, the National Trust works to stimulate involvement and investment in preservation. Our efforts have helped produce jobs, revitalize depressed inner-city neighborhoods and declining small towns, and protect endangered landmarks through matching grants, loans and model programs.

At the state level, the state historic preservation officers, appointed by their governors, assist federal agencies in meeting their preservation responsibilities. These include reviewing rehabilitation projects and awarding preliminary certifications for federal historic rehabilitation tax incentives, and preparing nominations to the National Register of Historic Places.

Unfortunately, in recent years, the Department of Interior has taken actions inconsistent with its important role in the federal-state-private partnership. While Judge Clark's position on historic preservation is unknown to us, it is our sincere hope that he will become personally and actively involved in this partnership, and reverse the detrimental policies established during Mr. Watt's tenure.

We fear, however, that Judge Clark, lacking any particular expertise in historic preservation, will continue to implement the current assault on the integrity of the historic preservation program. I would like to briefly recount three actions taken by the Department during Mr. Watt's tenure that we consider to be major problems requiring immediate reexamination and correction by the new Secretary.

First, the preservation program has been handled as a discretionary function that could be neglected in hard economic times. No matching federal grants for the state historic preservation programs were requested by the Department for fiscal years 1982, 1983, and 1984. No matching funds were requested for the National Trust in fiscal years 1983 and 1984.

No justification existed to support the gutting of this thriving program with a sudden cutoff of federal support. The Congress has recognized this fact. Not only did it act to reinstate funding to the National Trust and the states, it also appropriated an additional $25 million to create jobs on preservation projects as part of the Emergency Jobs Act of 1983. We have the Members of this Committee and the Subcommittee on Interior Appropriations, both under the leadership of Senator McClure, and your counterparts in the House, to thank for the continued existence of the national historic preservation program.

Second, the National Trust opposes efforts by the Department of the Interior to deny the states and the public a formal role in federal government decisionmaking that could affect their community's historic resources. The Department, with the active involvement of the Office of Management and Budget, has backed radical changes to the Advisory Council on Historic Preservation's regulations to implement Section 106 of the National Historic Preservation Act. These changes would diminish the state and public roles in reviewing federal programs and projects that affect historic properties. We find this heavy-handed approach to be a grave threat to informed decisionmaking by federal agencies because it eliminates those most knowledgeable and directly affected by the governmental actions from the process.

Third, Congress has recognized the value of tax incentives for historic property rehabilitation. The enormous success of these incentives has been due, in large part, to participation by state historic preservation officers in the process of certifying projects for tax incentives. The Department of the Interior has proposed the elimination of mandatory state historic preservation officer participation in the certification process. This would result in the loss of preservation expertise, local perspective and sensitivity and, importantly, the expedient processing of applications. If states did not participate, the Department would be forced to assume the workload. We believe it is not equipped to do so and that the entire tax incentive program could collapse as developers realize that the certification process was unacceptably time consuming and too expensive for them to pursue. Additionally, the Department has proposed charging user fees for the processing of tax certification applications. This would reduce the real value of the incentives without providing any program benefit.

We encourage the Committee to seek Judge Clark's commitment to correct these actions. Specifically, we urge Judge Clark to:

1) support continuation of matching grants at adequate levels for the National Trust and the state historic preservation offices,

2) oppose efforts to remove the public and state and local governments from a primary role in the historic preservation project review process, and

3) pursue a commitment to federalism principles by ensuring the continued crucial role of the state preservation offices in the administration of the national preservation program and, specifically, the tax certification process.

Mr. Chairman and Members of the Committee, we hope that Judge Clark shares the high aspirations of the Congress and this Committee in protecting our nation's heritage. The National Trust looks forward to assisting Judge Clark in any way possible as he reviews the preservation policies at the Department of the Interior. It is our sincere hope that Judge Clark's confirmation will mark a renewed federal commitment to the national historic preservation program.

Senator HECHT. Thank you, Mr. Boyd.
Mr. Davis.

STATEMENT OF JOHN H. DAVIS, EXECUTIVE DIRECTOR, NATIONAL RECREATION AND PARK ASSOCIATION

Mr. DAVIS. Yes, Mr. Chairman and Senator Chafee, I am John Davis, the executive director of the National Recreation and Park Association. I thank you for this opportunity.

I would like to say, as you have indicated, that my formal statement is submitted for the record, and what I have done is rewritten a paraphrase of that in the interest of brevity.

Senator HECHT. Thank you.

Mr. DAVIS. I would like to make one observation to kind of compensate for that, that is not in that statement. I did have a call recently from the designee which indicated that he was interested in working closely with our organization and seeing if he could put to rest the issues that we have faced under the former Secretary of the Interior.

I would observe that that is an improvement with regard to comparing him with Mr. Watt. I found him to be a very open individual, and I think that everybody has to be impressed with his composure and certainly with his integrity.

I would further say, however, that it is not his personality that is in question, as it was not Mr. Watt's, believe it or not, that was in question.

On the subject of the Secretary of the Interior, if all of us today, Mr. Chairman, set out to cut out paper dolls, and I am not suggesting we do that at this time, based upon our personal views as to what the perfect candidate would be or should be, we would likely construct a voluminous set of dolls, all varying in personality, background, and experience. That is to say, that there is no perfect candidate, someone who can fulfill everybody's expectations. Obviously much collective judgment is involved in the selection process.

The ultimate test is a review of one's actions after the fact, but unfortunately that is too late, so I hasten to submit here some of the issues about which we have concern, issues which we cited, by the way, in our January 1981 statement during Mr. Watt's confirmation hearings.

Just an observation to that, that I would add that the history of those issues and how they were addressed is not very good from our perspective. We called for consideration of a comprehensive national policy on recreation and parks, including environmental issues, public health and employment. That recommendation was ignored. Citing the positive catalytic effect on State and local government initiatives of grant and aid programs like the land and water conservation fund and the urban park and recovery program, we recommended continued support for these programs, but because of economic constraints, we also added that we recommended modest levels of funding, emphasizing always the leveraging effect of these programs at the State and local level.

The administration recommended, as was indicated by the Louisiana Senator yesterday, was that both programs be terminated.

I would add further in this context—this is my own belief—that had it not been in the last 3 years for the actions of the Congress of the United States and their attitudes, that those programs would not exist today.

Further we emphasized the urgency of having an agency such as the Bureau of Outdoor Recreation, but more particularly, likened to the Heritage Conservation and Recreation Service, for the purpose of policy development, of coordination, of recreation planning and technical services, and how such an agency leverages and maximizes public recreation and park efforts, here again at modest cost.

However, on February 19, 1981, HCRS was abolished. There is as a result in my opinion no national Federal focal point for recreation in parks that addresses recreation and parks over the broad perspective throughout the country. We believe paramount that the Federal Government in this case the Interior Department not insulate itself from the taxpaying American public, emphasizing time and again the importance of working with State and local government.

We recommended that the Interior take specific actions to assess options for innovative Federal, State, and local cooperation in the area of park and recreation resource protection and management.

The suggestion was generally ignored and intergovernmental cooperation on these issues in our view has been virtually nonexistent.

Again, we recommended that a Presidential study commission on recreation and parks look at long-term issues and problems. This initiative probably represented the most dramatic development in the parks and recreation enterprise in recent years, but was largely ignored for 18 months, and it was not until private enterprise working in concert with congressional leadership did we see movement, and finally in short, we of the NRPA are not pleased with the recreation and park record of the present administration, at least at this juncture.

We do, however, remain very optimistic, and I think that we will succeed because our objectives and goals are right. I believe this, that because we are on the right course and we seek the right solutions and we call upon Mr. Clark when confirmed, of course, to sit down and discuss these matters with us, and if he does this with an open mind, of course, and with an idea that we are trying to benefit the total American public and the environment in which we live, that we will in fact proceed and we will succeed.

Thank you very much.

[The prepared statement of Mr. Davis follows:]

National Recreation and Park Association

STATEMENT OF JOHN H. DAVIS, EXECUTIVE DIRECTOR, NATIONAL RECREATION AND PARK ASSOCIATION ON CONFIRMATION OF WILLIAM P. CLARK TO BE SECRETARY OF THE INTERIOR BEFORE COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, NOVEMBER 1-3, 1983

Mr. Chairman, members of the Committee. I am John H. Davis, Executive Director of the National Recreation and Park Association. Our national headquarters is in Alexandria, Virginia. We appreciate the opportunity to appear before the Committee on the confirmation of William P. Clark to be Secretary of the Interior.

My organization represents a cross section of public officials, civic leaders and others responsible for the policies, planning and management of park and recreation systems nationwide. Other members are engaged in a variety of research and education functions in university settings; still others are directly involved in recreation services for special populations. Another group of members is directly involved in providing quality recreation opportunities for the Armed Forces.

Before addressing the specific topic of this hearing, Mr. Chairman, I would like to publicly recognize your personal support and perseverance last week on S.1090, a bill to establish a national commission to examine long-term issues facing public park and recreation resources. With your leadership, and that of Senator Malcolm Wallop, I hope the bill will receive early attention by the full Senate and the House. Presently, 44 Senators are sponsoring or cosponsoring S.1090; the House bill, H.R. 2837, had 98 cosponsors as of last week.

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On the subject of the Secretary of the Interior: I suspect that all of us have an image somewhere of the perfect candidate for every public position or office. It is a fact, however, that among two or more persons, the perceived "ideal" characteristics differ. Thus, there is no absolute "right" or "wrong" person for any assignment. Absent overwhelming and irrefutable evidence, most appointments are judgement calls and the ultimate test is a review of one's actions after the fact. We anticipate that Mr. Clark will be confirmed; we will recommend several modifications to departmental policy; we will look closely for results.

Following the nomination of Mr. Clark, I took the liberty of writing him to identify, in outline form, some of the issues that my organization believes to be of public importance. I hope, and I believe, that it was in the spirit of improved communications that Mr. Clark, upon receiving my letter, called me to discuss our interests and our relationship with his office, should he be confirmed. I believe that this was a sincere initiative. This does not suggest that neither Mr. Clark nor the National Recreation and Park Association will agree on every issue or point. I hope that there will be considerable agreement, and frankly, I hope that our representatives would be invited to participate in "outreach" efforts when park and recreation issues are considered by the department.

It is in this spirit that I note here some of the issues that were subject to actions by the present Interior Secretary and which, in our opinion, must be reviewed by Mr. Clark. Several of these issues were cited in our January 7, 1981, statement at a similar hearing. The "history" of those issues upon which we made recommendations is not good.

- Citing rapidly changing socioeconomic conditions, changing public attitudes about "quality of life" issues and other factors we recommended that the Department of the Interior, in conjunction with other agencies and the private sector, propose for Presidential

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consideration a comprehensive national policy on recreation and and parks, including environmental issues and public health and employment, among other aspects. The recommendation was ignored.

- Citing the positive catalytic effect on state and local government initiatives of grant-in-aid programs like the Land and Water Conservation Fund and Urban Park and Recreation Recovery Program, we recommended continued support for these programs at modest funding levels. The Administration recommended that both programs be terminated.
- We commented that a federal agency with responsibility for national policy development and coordination, recreation planning, technical services, and interagency and intergovernmental coordination could leverage maximum public recreation and park benefits at modest cost. Such an agency--the Heritage Conservation and Recreation Service--did exist. It was abolished by secretarial order on February 19, 1981 and the majority of its mandated functions subsequently terminated or merged, at minimal levels, with other National Park Service units.
- We recommended that Interior take specific actions to assess options for innovative federal-state-local cooperation in the area of park and recreation resource protection and management. The suggestion was generally ignored, and intergovernmental cooperation on park and recreation issues has become virtually non-existent.
- We recommended that a Presidential Study Commission on Recreation and Parks to look at long-term issues and problems in this area. The recommendation which gained support among other public and private groups, was largely ignored for some 18 months.

A significantly large number of other issues are of common interest to the Congress and private organizations like my own. They, too, could have been cited in confirmation hearings. Some, like the so-called "assets management" program, have subsequently consumed considerable energy simply to have the national government adhere to Federal laws. Debate on this issue continues today.

These and other park and recreation-related issues are all within the purview of the Secretary of the Interior. It should be readily apparent that we are not pleased with the recreation and park record, to this point, of the current Administration. We remain optimistic. The Congress has not agreed with the Administration on the termination of the Land and Water Conservation Fund or the Urban Park and Recreation Recovery Program. The Congress has, on its own initiative, moved to create a national commission to look at recreation and park issues. We hope this congressional initiative will mature in the near future, and we expect the Secretary of the Interior, with other cabinet officers, to be a constructive participant in the establishment of the Commission and in the conduct of its business.

We have reached a point in our national history when effective cooperation among and between levels of government and between public agencies, citizens and private groups should be anticipated and expected. We look forward to a period of time when this objective will be a reality in the area of parks and recreation.

I will respond to any questions the Committee may have.

Senator HECHT. Thank you, Mr. Davis.

Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman. First of all I would like to extend my appreciation to all the panelists for appearing today and giving us their thoughts. Some are more difficult to resolve obviously than others.

I would say to Mr. Boyd in connection with the preservation effort in fairness to Mr. Watt, in the meetings I have had with him on this subject, he said this was a financial decision to abolish the preservation fund and he told us that at our last meeting, and I will say this to the others. Everybody is conscious of a whole series of things that have gone down the drain that are good, whether it is scholarships or the legal aid fund.

In the interest of trying to save money, the Congress has partaken in this, an awful lot of things have had to be given up, and so I think that is a separate thing from the thrust of the attitude toward the environment as has been accented more by say Mr. Hair and Mr. Peterson, but in the preservation area, certainly the tax laws that were passed were enormously beneficial and those had been with the approval of the administration, so your area I think is an easier one to deal with than some, and I think that what has happened is that the preservation movement has gone on pretty well at least from the observations I have seen, and the actions of the Department of the Interior I have found satisfactory.

For instance, they just came to our State and delisted some property which I thought was exactly right. The nature of the area had been changed and I was amazed at their vigilance because I thought they told the neighborhood a good thing—you cannot have change in the neighborhood and still have it an historic neighborhood, but now moving to the other areas, Mr. Hair said that he is a realist in that he expects Judge Clark to be confirmed.

I think you are probably right. I think you are right. Governor Peterson is familiar with his appointment when he was in the State house, and I suspect he looked on his department heads as that he should be given pretty wide latitude in getting who he wanted.

That doesn't mean everybody is confirmed automatically, but I think you look around this Senate, and there have been precious few people who haven't been confirmed; and if you look at those who have been good Secretaries, good Secretaries from what we call our point of view, an environmental point of view, I don't know whether the attitude would have been that the rating of them at the time of their confirmation would have been high marks.

Example—what would you have said about Andrus when, Cecil Andrus when he was confirmed? I don't know. I wasn't on the committee at that time, or Udall or Hickel. I suppose Udall had built up a record of communism, but Hickel, certainly they gave no indication, so sometimes it is hard to say looking at one's background.

I am not saying that this gives us a reason for thinking that somebody as noncommittal—I think Judge Clark has been quite noncommital in these hearings. There is no question about that, but I don't think that necessarily means he will be contrary to some of the interests that we have, although I would be happier if he had shown more enthusiasm for some of the points we set for-

ward in our questions, but my question to you is, Mr. Hair, is taking it from where we are, it seems to me, I would ask your agreement in this, your point of view, it seems to me—Mr. Peterson, too, Governor Peterson as well—isn't it our job if and when Judge Clark is confirmed to do all we can to bring before him our concerns and hopefully get him out to see the place? Nothing beats seeing something.

Yogi Berra said you can see a lot by looking, and I think that is true, so I think we all have a responsibility in trying to continually bring before him our views, get him out and see these areas, and certainly to maintain our contact with him, I and you, to get these points across.

There is a difference between he and Mr. Watt clearly in my judgment, in the reception of your organizations. It was oil and water between your groups and Mr. Watt. He thought you were out to get him, and maybe you were, but with some justification probably, so could you give me your reaction to those thoughts?

Mr. HAIR. Certainly; thank you, Senator Chafee. I would be delighted to respond to that.

For the first time in roughly 2½ years, all interests apparently are going to be invited back to the policy table of Interior, and I think that is the way it should be, not only interests in environmentalists and conservationists, but the interest of all who have reason to be concerned about public resources, and yes, I think it is our responsibility to bring back to that table ideas that are constructive, that are innovative, and to help him achieve the kind of consensus and balance that we believe that any good Secretary of the Interior, regardless of what party he represents, or what administration, should achieve; but a critical point remains that—let's go on the assumption that indeed Mr. Clark is an honorable and fair individual and I believe that he is that. Let's go on the assumption that he is relatively uninformed or unexperienced in the complex matters that he will face when confirmed as Secretary of the Interior.

If those are true, and I believe they are true, it is going to be necessary for him to become a quick study, and we know that he is reported to be a quick study on a wide range of complex issues.

What concerns me greatly is that the very people who develop policies and express the ideology of Jim Watt are still sitting at the Department of the Interior today. If those are the kinds of people that are going to provide, quote, unquote, the education that Mr. Clark needs from inside, he must rely on that 100 percent, then I think that is wrong, and if the only thing that changes at the Department of the Interior is the name on the Secretary's door, then no good cause has been served, so that is why we feel the policy and the personnel are so important.

Judge Clark must indeed change those policies, be a precursor for change to bring a new management team to Interior, and we are anxious to work with him in a constructive and positive way.

Mr. PETERSON. May I respond to that, please? Senator Chafee, you said that it was like oil and water between environmental leaders and Secretary Watt, and that is certainly true, but a more important factor to recognize was oil and water between the President and the environmental leaders because we are deeply con-

cerned not just about Interior but about those things across the board.

The Environmental Protection Agency was lead to that—20 some people leaving the place. The Forest Service, the Council on Environmental Quality, every agency of the Reagan administration that dealt with the environment was headed by appointees who were working, in our judgment, against the very thing they were supposed to be doing, and that is why I think it is important to recognize that the Secretary of the Interior, in addition to heading that very important department also chairs this Cabinet Council which deals with all the environmental matters of the administration, and he truly is a Secretary of the Environment for the United States, and that is why it is so fundamental that he, and that means the President, too, change those policies or we are bound to have the confrontation we have been having in the last three years.

Senator CHAFEE. Well, I want to point out, however, two things. One, that this administration has been acting under severe fiscal constraints which touches on some of the matters you are considering, Mr. Pritchard. Mr. Pritchard touched on some as well, and that thus we are not back in the days when there were the funds to do the things we wanted to do.

I appreciate you are dealing with the attitude and a direction more than a financial approach. However, clearly the fiscal problems have affected the areas that Mr. Pritchard touched on, Mr. Boyd touched on. That is one thing.

The second thing is that it seems to me that it was clearly indicated that things can be changed as indicated at EPA. I am thinking there is a world of difference between Mr. Ruckelshaus and Mr. Dawson, and although you touched on 1080 and the acid rain, I don't consider the acid rain issue having been settled by a long shot. It was just raised—I came down from the hearings upstairs on the fourth floor where we are dealing with the very subject of acid rain and the environment in Public Works Committee, so therefore, I subscribe to the views of Mr. Hair that we have got to do all we can to indicate to Judge Clark our concerns and to have these continued communications with him, and he is a very intelligent man, and under the administration in California outstanding achievements were made.

Now people can bicker with why they were done, but the fact is they were done, and Judge Clark from all reports was a key player in the administration. I have never heard that he was a key player necessarily on environmental issues, but because of his very status I can only assume he got into environmental issues out there, so my plea to you, each of you, is to use your best efforts and influence to try to direct—we have got to change. We have got a new opportunity here as I see it, and we should seize the moment and do the best we can in directing or persuading him to go off in the direction that we are all concerned with.

Mr. PETERSON. May I comment about the financial aspect?

Senator CHAFEE. Yes, and then I have something I want to direct to Mr. Pritchard.

Mr. PETERSON. I don't think there is any justification for saying the financial problems of the country are justification for——

Senator CHAFEE. I am not suggesting in the areas you were concerned with. They are more in the areas that Mr. Boyd was in, and some of the parks.

Mr. PETERSON. The number of dollars which has been removed from these agencies are a pretty small amount of money in the overall scheme of things, and other things were done to waste money like pushing for such reckless, irresponsible projects like Garrison diversion. We talk about $1.2 billion. Boy, if we had a fraction of that to put into EPA and the other things in Interior, the Council on Environmental Quality, it would make a tremendous change, so financially wrong as well as environmentally wrong.

Senator CHAFEE. One thing—please don't lay—I think the administration made some mistakes in the environmental area, but don't lay either the Garrison diversion or Clinch River, for example, at the foot of this administration. We were arguing about those under the prior administration years ago. You know that.

Dr. HAIR. Let me say very clearly, Senator Chafee——

Senator CHAFEE. I didn't mean to cut off Governor Peterson.

Mr. PETERSON. I was through.

Dr. HAIR. I believe very strongly that fiscal conservatism and conservation go hand in hand. I believe we conservationists are willing to take our fair share of the reasonable and responsible cuts in austere budget times.

However, if you look very closely, as I know that you have, at the budget of the Department of Interior, you will see great discrepancy in how those cuts have been made during the last 2½ years.

On the one hand, those kinds of activities that are designed to extract and to exploit natural resources have been markedly increased, and those programs designed to inventory and conserve natural resources have either been eliminated or markedly decreased. To me, that is not balanced. To me, that is not responsible fiscal conservatism, and that is what we are asking to come back to the Department of Interior is a responsible course of action.

Senator CHAFEE. I agree with you. Now here is the point I want to make if I could. Under Mr. Watt—why do I keep calling him Judge Watt—Mr. Watt, we were able to achieve certain things when we worked together and put on a common nonconfrontational thrust.

Example—I think that barrier beach legislation was a tremendous achievement, and we did that because everybody got behind it, and we worked at it together, and we persuaded him.

Now you might say that is straight Reaganomics, but nonetheless I think it was probably one of the more, one of the outstanding achievements in the past 5 or 6 years even going back to the prior administration.

Now the Endangered Species Act, we have got that reauthorized. Money, as I discussed earlier in the day the problem with OMB, it hasn't been cleared up, but still I am convinced they will be so we can make achievements, and it seems to me that it behooves us, you, I and others, to work together and concentrate to persuade Judge Clark of the directions where our concerns are, and I know personally from my dealings with Mr. Watt that the antagonism that existed would cause him sometimes it seems to me to go out of

his way to kick the environmental organizations in the shins just because of a you lose against me anyway sort of an attitude, which was a loser for the country, so I hope we can work together.

Certainly I am going to do everything I can with you gentlemen and the other organizations to try and use this influence.

Now getting back to Mr. Pritchard, you were here this morning I guess when I asked about the park protection area, and I suppose—what do you want to say to the answer that we will get adequate planning out of NEPA?

Mr. PRITCHARD. I'm sorry, sir.

Senator CHAFEE. What do you say to the answer that we will get adequate planning out of NEPA, the National Environmental Protection Act that takes care of the problems that I am worried about—the air, water?

Mr. PRITCHARD. I think it is a very important question you raised.

Senator CHAFEE. Degradation.

Mr. PRITCHARD. The reason why the national park resources protextion is proposed is that there is no adequate process under NEPA. The process right now only is occurring during a period of conflict between agencies. We would mention the 4,000 threats that were identified in the State of the Parks report in 1980. Many of those, if not most, are, a large number were caused in fact by other Federal agencies, and therefore would be or should be addressed under the NEPA process, but during the past 2 years we are seeing where CEQ, has been totally gutted in terms of its effectiveness in dealing with that compromise or negotiation process.

There also are specific pieces of legislation which have been established under the Coastal Zone Management Act, the National Historic Preservation Act, and the amendments to that, and other Acts which give—for example, the endangered species—which give greater protection to those resources than we have for our national park system.

Unfortunately, underneath the national parks are not adequately protected. Part of the answer is not a budgetary question as you were addressing before. I think we would all agree we are not looking for more dollars to solve the problems. We are looking for a planning process that first requires the Federal agencies to notify the Park Service of potential conflicts, and that does not now occur, and that is one of the reasons why that National Park Resource Protection Act is proposed.

It is also imperative to involve the local communities. Of course, that is not involved under NEPA, so those are all part of that very important piece of legislation that was passed by the House.

Money is not the issue. The issue is the process and the need for the involvement and commitment of Federal agencies to work with the National Park Service to protect those parks.

Mr. BOYD. That is identical, Senator Chafee. I wasn't here seeking more money.

Senator CHAFEE. I don't want anybody to leave this room thinking that I said that the problem that you are concerned with results from money. I said that some of the matters that you, Mr. Boyd are dealing with, that was a money matter.

Mr. BOYD. No, no.

Senator CHAFEE. It was portrayed that way, the reduction of the funding, the elimination of the funding for the preservation, but certainly—or the failure to use the coastal resources money for more parks and purchases which I feel so strongly should have been done. They talk about money, but that I did not use as an explanation for the attitude that has taken place in the past 2½ years. I wasn't suggesting that at all.

I hope, Mr. Peterson and Mr. Hair, understood that.

Mr. BOYD. It really is a matter of attitude and procedure as well as policy, and Mr. Pritchard made a very important point which is apropos of reservation. One of the things that has concerned us greatly is the effort by the Department of Interior to eliminate public communication in connection with historic site transactions. That comes clearly within the Federal jurisdiction. That is a matter of attitude and process and we hope that changes.

Senator CHAFEE. OK.

Mr. PRITCHARD. Mr. Chairman, may I respond just to a point?

Senator HECHT. We have a long panel and we have been waiting for 2 days. Go ahead.

Mr. PRITCHARD. If I could just say one point—I think the critical issue for all of us, we would hope there would be some effort on the part of the Senate to get a date specific response to the questions that you all have rightfully asked and we think that is imperative and we would hope I think for all the issues that have been addressed— this is not a new administration. It is one at midpoint, and we think it is time for some sort of response to these, especially by Judge Clark.

Thank you very much.

Senator HECHT. That will be brought to the Chairman's attention.

Senator Bradley.

Senator BRADLEY. Thank you, Mr. Chairman. I have only one question to each of the members of the panel. I appreciate their testimony today.

Since over the last 2 or so years many of you have been either outspoken or at least somewhat critical of the tenure of Secretary Watt, if you were each to choose one area where you hope that Judge Clark's tenure, if confirmed would be different, what would that area be and what course do you hope he will follow?

Mr. DAVIS. I will take a crack at that first if I might. I just simply say that I hope that he would see his perspective and responsibilities from the Interior Department as being one that affects very broadly the American public, that it is not restricted to the lands over which the Federal Government has control or holds leases or owns.

As was indicated here a moment ago, he is in effect the keeper of the environment of the American public. That goes far beyond the confines of the land over which they have direct control, and in fact has to do with where people live and work and play in their own day-to-day environments.

Senator BRADLEY. In addition to your general comment, will you make a specific policy recommendation?

Mr. DAVIS. I don't know if I am speaking from the perspective that you are, but to be heavily open to all constituency groups and try to get as conversant with their problems as possible.

For example, as was mentioned earlier, the demise of the Heritage Conservation Recreation Service; we saw the demise of the land and water conservation begin pretty much in the Carter administration and it continued. It is now at an all-time low and as Senator Chafee mentioned, that perhaps by necessity because of fiscal constraints, but when you turn around and you do away with an agency like the HCRS, I say that that is an arbitrary kind of a decision and speaks to the very fundamental question that I mentioned earlier about your relationship with cities and counties and State governments in this country from an environmental and leisure standpoint.

Senator BRADLEY. So your suggestion is stay open to the larger perspective and preserve or rejuvenate the agency of HCRS?

Mr. DAVIS. Yes.

Dr. HAIR. Senator Bradley, I think that successful Secretaries of Interiors have been characterized by one common theme, and the successors have built consensues around to have resource issues before them. Fortunately, we are over the 2½-year nightmare of Jim Watt. He was a master divider, so if I could say one thing that I would want Mr. Clark to bring back to the Department of Interior, it is confidence and that confidence can be gained through reestablishing consensus around to have resource issues, and the precursor for establishing consensus is to bring (A) a new management team to the Department of Interior, and (B) to redirect those policies that we have lived with for the last 2½ years.

Senator BRADLEY. Which one policy would you choose if you had one?

Dr. HAIR. I have 34 that I submitted to him.

Senator BRADLEY. I am not that optimistic.

Dr. HAIR. Which is most important, but I think that certainly the one that I think we ought to look at the first priority would have to do with coal leasing and as it relates to western lands.

Senator BRADLEY. Thank you.

Mr. PETERSON. Senator Bradley, I would recommend to the Secretary that he go read the National Environmental Policy Act to see what the Congress has established as the environmental policy of this Nation and to articulate that and see that it is carried out throughout any assignment in Interior as well as chairman of that Cabinet committee, and that in so doing, stop the practice of James Watt of functioning more like a Secretary of Commerce instead of a Secretary of Interior, give priority in those areas where he is assigned to protect the environment rather than furthering economic uses.

Senator BRADLEY. Would you make a recommendation in a specific policy area? Coal leasing has been suggested.

Mr. PETERSON. I think I don't want to try to give that special attention on one of these things because there is so many of them with equal importance and priority. It would be misleading for me to pick one of them.

Senator BRADLEY. I am asking you to pick one.

Mr. PETERSON. All right. OK. Let me give you one. I think that our resources of coal, oil, and gas need to be properly protected and not recklessly handled as they have been currently—all the stories of James Watt and the good Congressmen here today about the actions of James Watt being in the direction of protecting our energy independence is phony. I think anyone would be very hard put to find any example of Watt's activity which contributed one iota to furthering our energy independence. On the contrary, they polarized the country so that the progressive movement toward proper use of those resources was stymied, and that is the place I would say go in there and get the country, the Congress, the people, and the agencies working together to figure out how we can use these resources.

We have never opposed development per se. That is a red herring. People have pulled out a straw man. We have been in favor of development, but appropriate development. We are not opposed to digging or drilling on the Outer Continental Shelf, but we think it is foolhardy to start by drilling in the George's Bank, one of the world's greatest fishing grounds.

Senator BRADLEY. Thank you. Mr. Pritchard?

Mr. PRITCHARD. Senator, I think your question is very important and rather than add another dimension to that issue I would like to build on the comments that my fellow panelists here have said. I think it imperative that we deal with the morale in the Department of the Interior by the appointment of proper people, by the implementation of the rules, laws, and regulations that are his responsibility.

Specifically, I would encourage not only what we have heard about—I think it also is imperative that we do in fact protect the national parks through the National Park System Resource Management Act, and I think that is important, building on what Senator Chafee raised before. It is not a budgetary issue, and I think that is why that act, even though I would like to mention land and water and others, I think that can be dealt with in this time of austerity.

Thank you, sir.

Senator BRADLEY. And how would you like to see them deal with it?

Mr. PRITCHARD. With that act? I think it is imperative the administration support the act. I think the administration should in fact begin implementing the basic ideas that are in the act without waiting for Congress to pass the act. I believe Senator Chafee has pointed out that there is in fact ground for assuming that act should have been carried out under NEPA. That unfortunately has not been.

Thank you, sir.

Mr. BOYD. A very parochial suggestion, Senator, that the next Secretary firmly and strongly support the Advisory Council on Historic Preservation, which is housed in the Interior Department, and that the Council's current regulations would permit and authorize participation in decisions by the American public and of the individual States where the properties are located.

Senator BRADLEY. Thank you very much, Mr. Chairman.

Senator HECHT. Thank you. I think we can have one more panel before we break for lunch. We will hear from panel 3 at this time. Keith Jewett and Mr. Merrick, if they have testimony they can submit it for the record. Theirs is testimony on behalf of the Tulea Tribe, which will be put into the record.

We're going to ask you to limit your testimony to 10 minutes, and then when the bell rings if you're not finished, please summarize.

Mr. Forkenbrock.

STATEMENT OF JOHN FORKENBROCK, SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION, VALLEY CENTER, CALIF., ACCOMPANIED BY KEITH JEWETT, CHEYENNE RIVER SIOUX TRIBE, EAGLE BUTTE, S. DAK.; MARK MERRICK, OMAHA TRIBE OF NEBRASKA, WALT HILL, NEBR.; AND LOUIS AND ANNIE ANDRADE, OXNARD, CALIF.

Mr. FORKENBROCK. Thank you, Mr. Chairman. I promise you I will not take near the time that we're allotted this morning.

My name is John Forkenbrock, and I am here this morning speaking on behalf of the Southern California Tribal Chairmen's Association.

Let me first of all extend to the committee apologies of Mr. Dennis Turner, who was originally scheduled to testify this morning but because of some pressing business in California was unable to attend.

Southern California Tribal Chairmen's Association is made up of 19 tribes in the San Diego County area of southern California. Unlike the previous panel, who were referencing the membership of the thousands and millions, those 19 tribes make up about 10,000 Indian people living in that particular area.

Our testimony this morning is in behalf of Mr. Clark's nomination, and we support it in total, and we do so primarily because of his record while serving in California as then-Governor Reagan's chief of staff.

I think I will defer some of the experiences that the California tribes saw in Mr. Clark as a chief of staff to the other witnesses who are from the area specifically, and I think can give you some specifics in that case. However, my testimony does reference some of the things he has done.

The bottom line, Mr. Chairman, is the fact that it's our feeling that Mr. Clark is—his integrity and sincerity are impeccable, and that he has shown the tribes of California, at least, that he does have sincere understanding, and willingness to assist in addressing Indian and tribal needs.

There's one thing, however, we would like to point out to the committee, as well as to Mr. Clark, and I reference this morning that many of the witnesses have made comments as to essentially a cleaning house, you might say, of the entire Interior administration. Maybe the case with some of the Bureaus within the Department. We, however, in terms of the Bureau of Indian Affairs, the Bureau which does take care of, or has the trust responsibilities specifically housed in their bureau with Indian tribes, we do not support that particular point of view.

We are very supportive of the present administration within the Bureau of Indian Affairs. The present Assistant Secretary, Mr. Ken Smith, is in our judgment making headway in implementing a strong economic development initiative as demonstrated by some of the programs that he is now developing, or is now implementing, one of which is the small tribes initiative grants program, which the California tribes have taken advantage of, and are using to assist them in building up some of their tribal government infrastructure.

Mr. Smith has also saw in terms of the California situation the uniquenesses in that State in that he has set up a California task force to look into the ways in which the bureau can better serve tribal needs within the State of California.

So basically, Mr. Chairman, what I'm saying to you is that it is our position, that is, the Southern California Tribal Chairmen's Association, that we would hope that Mr. Clark would retain the present administration within the Bureau and give them the leadership and support that they need to be able to carry out the programs and policies that they would like to do.

In summary, Mr. Chairman, let me just say that on behalf of Southern California Tribal Chairmen's Association that many of the American and Alaskan Natives still face a vast array of problems both economic and social. Problems like education, housing, health care, employment needs, and infrastructure support, to name just a few.

These are all problems which threaten the very fiber of tribal existence, not to mention the threat imposed to native American and Alaskan native cultural and historical roots.

The Southern California Tribal Chairmen's Association feels that William Clark will do his best to insure that the trust responsibility of this Government has for native Americans, and the government to government relationship which that trust responsibility carries with it, will not only be protected and insured, but will be enhanced.

And one other personal note, Mr. Chairman, if I might, personally I've been involved in Indian affairs for about 7 years. And as a non-Indian working with Indian affairs, one of the things that I have come to learn—in fact, you can learn this very fast, is that you never fully understand all the intricacies that are involved in the native American government, and native American culture, and all the various other things involved with Indian tribes. You learn something every day.

One thing you need to do in the very beginning is to sensitize yourself to that fact. And many times in dealing with State governments, or Federal bureaucracies, or Federal agencies, Members of Congress, whoever, who do not fully have that background, perhaps because they're not from the areas that tribes are a part of, your first job, your first choice is to sensitize those people as to what that uniqueness is of tribes of native Americans and Alaskan Natives, what their needs are; not to mention trying to get them to gain the understanding of what a trust responsibility is, and what the government to government relationship is between the Federal Government and Indian tribes.

One of the things that helps you learn that is, you might say, the trenches. Every time I go to a reservation I come back learning something new.

Mr. Clark has had that experience in the trenches. As I indicated earlier, his serving as Mr. Reagan's chief of staff in California he did work with California tribes; he did work with their needs; and he did deal with their problems. It's good to know that we'll have a Secretary of Interior who has some of that experience, you know, has the sensitivity and the understanding of knowing what their uniquenesses are.

It's for that reason, Mr. Chairman, that the California Tribal Chairmen's Association welcomes William Clark back into Indian affairs, and we are proud to support his nomination for Secretary of the Interior. Thank you.

[The prepared statement of Mr. Forkenbrock follows:]

SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION

Testimony

On Behalf Of The Nomination Of

William P. Clark

To The Secretary of Interior

GOOD MORNING MR. CHAIRMAN, MY NAME IS JOHN FORKENBROCK, AND I AM HERE THIS MORNING TO SPEAK ON BEHALF OF THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION IN SUPPORT OF THE NOMINATION OF MR. WILLIAM P. CLARK TO BE THE SECRETARY OF INTERIOR.

THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION IS AN ORGANIZATION WHICH REPRESENTS 19 INDIAN TRIBES LOCATED IN AND AROUND SAN DIEGO COUNTY IN SOUTHERN CALIFORNIA. WE HAVE REQUESTED THIS TIME THIS MORNING TO SPEAK ON BEHALF OF MR. CLARK BECAUSE WE RECOGNIZE HIS PAST ACCOMPLISHMENTS IN CALIFORNIA FOR CALIFORNIA TRIBES, AND BECAUSE WE FEEL CONFIDENT THAT AS SECRETARY OF INTERIOR, HE WILL GIVE THE BUREAU OF INDIAN AFFAIRS HIS TOTAL SUPPORT AND LEADERSHIP IN SERVING THE NEEDS OF NATIVE AMERICANS THROUGHOUT THE UNITED STATES.

HIS UNDERSTANDING OF CALIFORNIA TRIBAL NEEDS CAN PERHAPS BE BEST EXEMPLIFIED DURING THE PERIOD IN WHICH MR. CLARK SERVED AS THEN GOVERNOR REAGAN'S CHIEF OF STAFF. WHILE SERVING IN THAT POSITION, HE GREATLY ASSISTED IN THE

PROTECTION OF THE ROUND VALLEY INDIAN RESERVATION LOCATED IN NORTHERN CALIFORNIA FROM BEING COVERED -- AT LEAST IN PART -- BY WATER AS A RESULT OF A PROPOSED DAM PROJECT WHICH WAS TO BE BUILT. BECAUSE OF JUDGE CLARK'S INVOLVEMENT AND UNDERSTANDING THE DAM WAS NOT CONSTRUCTED AND THE ROUND VALLEY INDIAN RESERVATION REMAINED INTACT.

MR CHAIRMAN, MR. CLARK'S INTEGRITY AND SINCERITY ARE IMPECCABLE. HE HAS DEMONSTRATED THIS QUALITY IN CALIFORNIA AND THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION IS CONFIDENT THAT THIS CHARACTER TRAIT WILL BE CARRIED THROUGH HIS DECISIONS AS SECRETARY OF INTERIOR.

WE WOULD HOWEVER, MR. CHAIRMAN, LIKE TO POINT OUT TO THIS COMMITTEE, THAT THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION IS SUPPORTIVE OF THE PRESENT ADMINISTRATION WITHIN THE BUREAU OF INDIAN AFFAIRS, WHICH AS YOU KNOW MR. CHAIRMAN, IS A MAJOR BUREAU WITHIN THE DEPARTMENT OF INTERIOR. THE PRESENT ASSISANT SECRETARY, MR. KEN SMITH, IS IN OUR JUDGEMENT, MAKING HEADWAY IN IMPLEMENTING A STRONG ECONOMIC DEVELOPMENT INITIATIVE AS DEMONSTRATED BY THE SMALL TRIBES INITIATIVES GRANTS PROGRAM WHICH WE IN CALIFORNIA FEEL CAN HELP TRIBAL GOVERNMENT'S DEVELOP INTO VIABLE ECONOMIC ENTERPRISES. MR. SMITH HAS DEVELOPED A WORKABLE ECONOMIC DEVELOPMENT POLICY AND HAS SET OUT A BLUEPRINT BY WHICH TO IMPLEMENT IT. IT WOULD

BE A MISTAKE TO CHANGE THIS POLICY DIRECTION AT THIS POINT IN TIME. WE FEEL VERY STRONGLY THAT THE POSITION OF THE DEPARTMENT OF INTERIOR OUGHT TO BE TO GIVE THE PRESENT B.I.A. MANAGEMENT TEAM A CHANCE TO IMPLEMENT FULLY THE POLICIES OF ITS CURRENT ASSISTANT SECRETARY AND TO LEND THE BUREAU THE LEADERSHIP FROM THE SECRETARY LEVEL WHICH HAS BEEN QUITE FRANKLY, UP TO NOW NONEXISTANT. IT IS EXTREMELY DIFFICULT FOR A MANAGER TO IMPLEMENT HIS POLICY IF HIS SUPERIOR WILL NOT GIVE IT THE KIND OF SUPPORT IT NEEDS TO WORK. WE FEEL MR. CLARK UNLIKE HIS PREDECESSOR, WILL GRANT ASSISTANT SECRETARY SMITH THE LEADERSHIP AND VERBAL SUPPORT HE NEEDS TO MAKE HIS PROGRAM WORK.

IN SUMMARY MR CHAIRMAN, LET ME JUST SAY ON BEHALF OF THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION, THAT NATIVE AMERICANS AND ALASKA NATIVES FACE A VAST ARRAY OF PROBLEMS -- ECONOMIC AND SOCIAL. PROBLEMS LIKE EDUCATION, POOR HOUSING, HEALTH CARE, EMPLOYMENT NEEDS AND INFRASTRUCTURE SUPPORT TO NAME JUST A FEW. THESE ARE ALL PROBLEMS WHICH THREATEN THE VERY FIBER OF TRIBAL EXISTANCE, NOT TO MENTION THE THREAT IMPOSED TO NATIVE AMERICAN AND ALASKAN NATIVE CULTURE AND HISTORICAL ROOTS. THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION FEELS THAT WILLIAM CLARK WILL DO HIS BEST TO INSURE THAT THE TRUST RESPONSIBILITY THIS GOVERNMENT HAS FOR NATIVE AMERICANS AND THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WHICH THAT TRUST RESPONSIBILITY CARRIES WITHIN IT WILL NOT ONLY BE PROTECTED AND INSURED, BUT WILL BE ENHANCED.

WE, WHO MAKEUP THE SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION, LOOK FORWARD IN WELCOMING MR. CLARK BACK TO INDIAN AFFAIRS AND WE ARE PROUD TO BE ABLE TO SUPPORT HIS NOMINATION AS SECRETARY OF INTERIOR.

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Senator HECHT. Thank you very much.

Mr. and Mrs. Andrade, before I came to the Senate I ran a western department store and we had a large jewelry department, and I'm admiring your jewelry.

Which of you would wish to proceed first?

STATEMENT OF LOUIS ANDRADE, MEMBER, LA JOLLA INDIAN RESERVATION, SAN DIEGO, CALIF.

Mr. ANDRADE. Mr. Chairman, members of the committee, my name is Louis Andrade, and I'm an enrolled member of the La Jolla Indian Reservation, located in San Diego, Calif.,

With me is my wife, Annie Andrade, and my son, Ron Andrade.

My wife and I presently reside in Oxnard, Calif., where Mr. Clark once lived. I want to thank you for the opportunity to testify on the nomination of Mr. Clark, Jr., to be Secretary of the Department of the Interior. I have known Mr. Clark since early 1960 and I can attest to his professional background.

My family wanted to be present not only because they're supportive of Mr. Clark, and impressed by his professional background, but also because we are knowledgeable of Mr. Clark's interest in the rights of American Indians.

There have been many questions asked regarding Mr. Clark's interest on Indian affairs, and how he would react as Secretary of the Interior.

We know that as chief of staff for then Governor Reagan of California he was instrumental in the protection of Round Valley Indian Reservation that would have been flooded had a planned dam been built.

Mr. Clark, as part of the Governor's staff also worked to have a land transfer made to one of the Indian organizations in the State. What is important to note is that William Clark's interest in American Indians is still much deeper.

There are many American Indian families in Oxnard that can testify to Mr. Clark's willingness to handle Indian personal cases which are rarely profitable. On a personal level Mr. Clark handled some legal affairs for my family although he knew we could not afford much.

Our most recent contact with Mr. Clark occurred this past year. Although Mr. Clark was quite busy as National Security Adviser to the President, he still took the time to answer our calls and to express his personal support for the return of the Olympic medals to the family of Jim Thorpe.

These are just some of the reasons we feel Mr. Clark will make an excellent Secretary of the Interior. There are other, of course, some particular areas of concern that we would like to bring to Mr. Clark's attention.

In a recent press article Mr. Clark has been quoted he will review the management policies of some of his departments. I hope that there will be no changes made in the present management of Indian affairs. I feel that the present management team under Assistant Secretary Ken Smith is doing a very good job. Mr. Smith has begun some new initiatives that have been very beneficial to

the California area, such as the small tribes initiative, and the California Indian Task Force.

I feel that under his continued leadership greater things can be done.

In recent years my family founded an Indian Council in Oxnard in order that we could preserve and teach about Indian culture. We're all concerned about the preservation and teaching of Indian culture and art.

The Institute of American Indian Art in Santa Fe, N. Mex., was established for just this reason. Artists such as Fritz Scholder attended the institute. I am proud to note that Fritz Scholder is a member of La Jolla Indian Tribe.

I would hope Mr. Clark will continue support for the Institute of American Indian Art in Santa Fe.

At the Indian Council we have been concerned for the rights of two particular groups; off reservation Indians, and nonfederally recognized Indians.

It so happens that the executive director of our council is a member of a tribe pending recognition as part of the Federal acknowledgement process, the Poarch Bank of Creeks. My family is also familiar with the Lumbee Tribe of North Carolina that is pending recognition. We hope that Mr. Clark will lend greater support for the acknowledgement process so that the rights of these Indians can be recognized.

We are very concerned that the rights of off-reservation Indians be recognized. I'm an enrolled member of a tribe. My rights, I feel, do not change simply because I live in Oxnard, Calif. I hope that Mr. Clark will review how the BIA serves off reservation Indians.

And finally, no request can be made of the Secretary of the Interior without making the protection of Indian sovereignty and trust rights the first priority of the U.S. Government by way of treaty and congressional acts has established that trust relationship of the American Indians to the Federal Government.

The Secretary of the Interior is charged with the protection and fulfillment of these rights. Of all the rights we seek as American Indians these are the most important to us.

Mr. Chairman, on behalf of my family, and the Indian friends of Mr. Clark in Oxnard, Calif., I want to thank you for this opportunity to testify.

[The prepared statement of Mr. Andrade follows:]

TESTIMONY BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE REGARDING THE NOMINATION OF WILLIAM P. CLARK TO BE SECRETARY OF THE DEPARTMENT OF THE INTERIOR, PRESENTED BY LOUIS ANDRADE AND ANNIE ANDRADE, NOVEMBER 2, 1983.

I have requested the opportunity to testify regarding the nomination of William P. Clark to be Secretary of the Department of the Interior because of my personal knowledge of his work with American Indians. I am an enrolled member of the La Jolla Indian Reservation located in San Diego, California. I, along with my wife and family, reside in Oxnard, California, where Mr. Clark once lived. We have lived in the area since 1952. I have known Mr. Clark since the early 1960's and I can attest to his professional background.

My family wanted to be present during the confirmation hearings not only because we are supportive of Mr. Clark and impressed by his professional background, but because we are knowledgeable of Mr. Clark's interest in the rights of American Indians. There have been many questions asked regarding Mr. Clark's interest in Indian affairs and how he would react as Secretary of Interior. To answer that question, we suggest that every one review some of the work Mr. Clark did while in California. We know that as Chief of Staff for then Governor Reagan of California, he was instrumental in the protection of the Round Valley Indian Reservation that would have been flooded had a planned Dam been built. Mr. Clark, as a part of the Governor's staff, also worked to have a land transfer made to one of the Indian organizations in the State.

What is important to note is that William Clark's interest in American Indians is still much deeper. There are many American Indian families in Oxnard, California, that can testify to Mr. Clark's willingness to handle Indian personal cases which are rarely profitable. On a personal level, Mr. Clark handled some legal affairs for my family although he knew that my family could not afford to pay very much. We have also spoken to various Indians that once worked for Mr. Clark and they have expressed their support for his nomination.

Our most recent contact with Mr. Clark occurred this past year. Although

Mr. Clark was quite busy as National Security Advisor for the President, he still took the time to answer our calls and to express his personal support for the return of the Olympic medals to the family of Jim Thorpe.

There are, of course, some particular areas of concern that we would like to bring to Mr. Clark's attention.

In recent press articles, Mr. Clark has been quoted as saying he will review the management policies of the Department of Interior. It is our hope that there will be no change in the management of Indian Affairs within the Department. I feel that the present management team under Assistant Secretary Ken Smith is doing a very good job. Mr. Smith has begun some new initiatives that have been very beneficial to California such as the Small Tribes Initiative grants and the California Indian Task Force which is designed to provide specific recommendations to Ken Smith regarding the needs of California Indians. There are a great number of new directions that have begun under the tenure of Ken Smith as Assistant Secretary and I feel that under his continued leadership greater things can be done.

I feel that it is very important that Mr. Clark announce his attention to support Mr. Smith as soon as possible in order that Indian Affairs will not be hampered.

In recent years my family founded an Indian council in Oxnard in order that we could preserve and teach about Indian culture. We are all concerned about the preservation and teaching of Indian culture and art. The Institute of American Indian Arts in Santa Fe, New Mexico was established for just this reason. Indian artists from throughout the U.S. have attended the Institute in order that they could share their artistic gifts and to possibly learn more about art. The Institute has fostered many excellent artists such as Fritz Scholder. I am proud to note that Mr. Scholder is also from the La Jolla Indian Reservation. If an art institute can help but one person with the talent of Mr. Scholder then it has been a sucess. The Institute of American Indian Arts has helped many other Indian artists. For that reason, I would hope Mr. Clark will continue support for the Institute of American Indian Arts in Santa Fe, New Mexico.

As I mentioned previously, I helped to found the Indian Council

located in Oxnard, California. At the Council, we have been concerned with the rights of two particular groups; off-reservation Indians and non-federally recognized Indians. It so happens that the Executive Director of our Council is a member of a Tribe pending recognition as a part of the Federal Acknowledgement Process, the Poarch Band of Creeks. My family is also very familiar with the Lumbee Tribe of North Carolina that is pending recognition. The history of California is one in which many of the Tribal groups were never recognized by the federal government and, therefore, have never been able to receive services as Indian people. We hope that Mr. Clark will lend greater support for the Acknowledgement Process so that the rights of these Indians can finally be recognized.
We are very concerned that the rights of off-reservation Indians be recognized. I am an enrolled member of a Tribe. My rights, I feel, do not change simply because I live in Oxnard, California. Those Indians living off the reservation suffer all of the same problems facing those Indians on the reservation and in the case of racial discrimination they suffer greater problems since we live among the non-Indian community. I would hope that Mr. Clark will review how the BIA serves off-reservation Indians. Groups such as our Indian Council in Oxnard will assist in any way possible.
And finally, no request can be made of the Secretary of Interior without making the protection of Indian Soveriegnty and Trust Rights the first priority of the Secretary. The U.S. Government by way of Treaty and Congressional Acts has established the Trust Relationship of the American Indian and the Federal Government. The Secretary of Interior is charged with the protection and fulfillment of those rights. In January of 1983, President Reagan released his policy statement that addressed this Trust Relationship. I would hope that the Secretary of Interior, William Clark would re-affirm the statements made by President Reagan and would work closely with Tribal leaders to insure that the rights of all American Indians are protected.
On behalf of my family and the Indian friends of Mr. Clark in Oxnard, California I want to thank the Committee for the opportunity to submit this testimony. It is with great pride that we have come here to support the nomination of William Clark as Secretary of the Department of Interior. Thank You.

Senator HECHT. Mrs. Andrade, do you have anything to say? Mr. Andrade?

Mr. ANDRADE. No, sir.

Senator HECHT. We thank you for coming long distances to testify.

The hour is now 12:15. We will adjourn for lunch, and resume promptly at 2.

[Whereupon, at 12:15 p.m., the committee was recessed to reconvene at 2 p.m.]

AFTERNOON SESSION

Senator HECHT. The afternoon session of this hearing will now come to order. And panel 4, would you please come to the front.

As I spoke earlier this morning, please keep your remarks to the allotted time. When you hear the bell go off please begin to summarize if you haven't finished at that time.

Now, Mr. Derrick A. Crandall, proceed.

STATEMENT OF DERRICK A. CRANDALL, PRESIDENT, AMERICAN RECREATION COALITION

Mr. CRANDALL. We're delighted to be here this afternoon, and to express our opinions relative to the nomination of William Clark to serve as Secretary of the Interior.

The job of Secretary of the Interior is very important to the recreation community. Today more Americans engage in more different recreational activities more frequently than ever before. We spend an average—an estimated $250 billion annually on our leisure time pursuits, a figure which has grown each year faster than inflation, and faster than the growth in population.

This spending has created substantial employment across the Nation. Jobs in manufacturing plants, jobs at campgrounds, jobs at marinas, and jobs as outfitters and guides in national forests across the West. A total of some 9 million jobs is estimated to be connected with recreation.

The Department of the Interior plays a critical role in meeting our Nation's recreation needs. As the direct manager of the largest portion of our Federal lands, as well as the manager of some of the choicest of the public lands, Interior hosts many of the 1 billion plus recreation visitor-days Americans will enjoy on Federal lands in 1983.

But Interior's responsibilities extend well beyond the boundaries of the public lands. The Department of the Interior is charged with providing a coordinating role among public and private recreation providers. It has also been assigned responsibility for technical and financial assistance. And in each of these four areas of responsibility the Department of the Interior has faced great challenges over the past decade. Some of the challenge has arisen because of budgetary pressures. Additional challenges come as a result of changes in recreation technology. Additional challenges have resulted from a period of increased polarization among special interests, and within the Congress over natural resource application questions. Certainly the maelstrom of personalities has overshadowed programs, and hampered positive change in recent months.

We are here today in part to underscore the importance of our recreation legacy. Institutions such as our park and forest systems, for example, as well as to applaud a number of initiatives by the present administration.

We are also here to applaud members of this committee who have taken the lead in setting into motion a comprehensive review of America's outdoor recreation needs and resources.

And finally we are here to offer to the incoming Secretary of the Interior our views on priority activities.

Let me start with the importance of our recreation legacy. A member of this committee, the distinguished senior Senator from Wyoming, Malcolm Wallop, offered an interesting perspective at a lecture at Clemson University some 6 weeks ago. He said, and I quote:

> We have set aside large tracts of our most scenic lands for recreational enjoyment. The recreation of our national park system, for example, was an American innovation more than 100 years ago. The national parks continue to be the premier system in the world. Regardless of where we live, in Alaska, or Maine, our national parks are a shared heritage. They are part of the cement which binds our nation together.

We think Senator Wallop is very accurate in this assessment. We also believe that our love for first hand experiences in our Nation's natural areas was at the heart of the environmental movement in the 1960's and 1970's. The drive for clean air, and clean water has some very practical dimensions. Fishermen, and boaters, campers, and hikers alike, wanted the clean air and clean water which enhances the quality of their chosen recreational activity.

This legacy, and the deepness of the sentiments of the American public about this legacy must at all times remain prominent in the administration of the department. Protecting this legacy requires the balancing of competing demands, and innovative management programs. We would hope that some of the needed innovation which has come about over the past 2½ years will not be lost. Perhaps the most important change is the heightened awareness we have sensed within the Department of the Interior for the need to cooperate more completely, and more effectively with the private sector, including both nonprofit, and for profit organizations.

We've been pleased by the interest we have found in recent years toward park concessioners, outfitters, and others who serve the public on Federal lands. We have also been encouraged by the National Park Service heightened awareness of the key role which it plays in the economies of many local communities, and in the Nation's travel and tourism industry. We have seen this interest blossom into important initiatives aimed at correcting geographic and seasonal imbalance in park visitations.

We have also seen a growing interest in structuring volunteer programs so that they're a rewarding experience for both those participating and the Government.

Before concluding my remarks I wish to underscore the importance for the Secretary to assume a lead role in the coordination of recreation policy in the United States.

For millions of Americans young and old recreation in the public lands play a particularly important role in our lives. We encourage the Secretary to visit some of the great institutions, some of the

great land areas we've set aside, and to meet both with the public servants who are managing those resources, as well as those who are visiting those lands to underscore in his mind the importance of his Department, and the role it plays in providing recreation to America.

Finally by ushering in an era in which personalities and emotions are sublimated to the much more important question of long-range policy. We believe that the Secretary designate can play a crucial role in building a broad consensus on recreation in America, and in fostering the development of creative Federal programs which will respond to recreation needs of the citizens they serve.

Thank you.

[The prepared statement of Mr. Crandall follows:]

STATEMENT BY DERRICK A. CRANDALL, PRESIDENT, AMERICAN RECREATION COALITION, ON THE NOMINATION OF WILLIAM CLARK FOR SECRETARY OF THE INTERIOR, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, NOVEMBER 2, 1983.

Mr. Chairman and distinguished members of the Energy and Natural Resources Committee, it is indeed an honor to appear today and to express our views in connection with the nomination of William Clark to serve as Secretary of the Interior. The job of Secretary of the Interior is of critical importance to the recreation community, including the 90 organizations and corporations which comprise the American Recreation Coalition.

Virtually every American engages in recreation. In fact, more Americans engage in more different recreational activites more frequently today than ever before. In so doing, we spend an estimated $250 billion annually on our leisure time pursuits, a figure which has grown each year faster than inflation and faster than population growth, during good economic times and bad economic times. This spending has created substantial employment across the nation, ranging from jobs in the manufacturing plants of The Coleman Company in Wichita, Kansas to jobs at KOA campgrounds ringing Washington, D.C.; jobs at marinas in Annapolis and jobs as outfitters and guides in national forests throughout the West. We estimate total employment in recreation at 9 million full-time jobs.

The Department of the Interior plays a critical role in meeting our nation's recreation needs. As the direct manager of the largest portion of our federal lands, as well as the manager of some of the choicest of the public lands -- including our national parks -- Interior hosts many of the 1 billion plus recreation visitor days Americans will enjoy on federal lands in 1983. But Interior's responsibilities in the field of recreation extend far beyond our public lands. Under a variety of statutes, the Department of the Interior is charged with providing a coordinating role among public and private recreation providers. It has also been assigned technical and financial assistance responsibilities.

And in each of these four areas of responsibility, the Department of the Interior has faced great challenges over the past decade.

Some of the challenges have arisen because of budgetary pressures all too familiar to members of this Committee. Additional challenges have come as a result of changes in recreation technology, permitting an explosion in outdoor activities during the winter months and greater mobility in back country areas, for example. Additional challenges have resulted from a period of increased polarization among special interests and within the Congress over

natural resource allocation questions. Certainly over the past three years, recreation issues have been caught up in a maelstrom of personalities which has overshadowed programs and hampered positive change.

We are here today, in part, to underscore the importance of our recreation legacy -- institutions such as our park and forest systems, for example -- as well as to applaud a number of initiatives by the present Administration. We are also here to applaud members of this Committee who have taken the lead in setting into motion a comprehensive review of America's outdoor recreation needs and resources. And finally, we are here to offer to the incoming Secretary of the Interior our views on priority activities for the Department of the Interior.

Let me start with the importance of our recreation legacy. A member of this committee, the distinguished senior U.S. Senator from Wyoming, Malcolm Wallop, offered an interesting perspective at a lecture at Clemson University some six weeks ago. He said: "We have set aside large tracts of our most scenic lands for recreational enjoyment. The creation of our National Park System, for example, was an American innovation more than 100 years ago in 1872 when we set aside Yellowstone National Park under President Grant. The National Parks continue to be the premiere system in the World. Regardless of where we live -- in Alaska or Maine -- our National Parks are a shared heritage. They are part of the cement which binds our nation together."

We think Senator Wallop is very accurate in his assessment. We also believe that our love for first-hand experiences in our nation's natural areas was at the heart of the environmental movement in the 1960's and 1970's. The drive for clean air and clean water had some very practical dimensions. Fisherman and boaters, campers and hikers alike wanted the clean air and clean water which enhances the quality of their chosen recreational activities.

This legacy, and the deepness of the sentiments of the American public about this legacy, must at all times remain prominent in the administration of the Department of the Interior.

Protecting this legacy, though, is a complex matter and one which will require a balancing of competing demands and innovative management programs. We would hope that some of the needed innovation which has come about over the last two and one half years will not be lost in the controversy over personalities which has occurred in recent months.

Perhaps the most important change of all is a heightened awareness we have sensed within the Department of the Interior for the need to cooperate more completely and more effectively with the private sector, including both non-profit and for-profit organizations. We have been pleased by the interest we have found in recent years toward the role of park concessioners, outfitters and others who serve the public on federal lands. We have also been encouraged by the National Park Service's heightened awareness of the key role

which it plays in the economies of many local communities and in the nation's travel and tourism industry. We have seen this interest blossom into important initiatives aimed at correcting geographic and seasonal imbalance in park visitations, a problem which exascerbates environmental and social conflicts. We have also seen a growing interest in structuring volunteer programs in a manner which provides a good return both to the government and to those volunteering their time and services.

We also applaud this Administration's efforts to reverse a pattern of recurring discrimination against recreation activities during the 1970's. Boaters who paid federal fuel taxes which were deposited in the Land and Water Conservation Fund were justifiably outraged in 1979 when they discovered that the Department of the Interior sought to eliminate use of Land and Water Conservation Fund monies for any facilities serving power boats. And boaters were certainly not alone. Hunters, RV owners, snowmobilers, and many others were victimized by an attitude that some recreation forms were good and that others were bad, an attitude largely eliminated by this Administration.

We would hope that Secretary-designate Clark would continue with such positive steps as the Parks Rehabilitation and Improvement Program, the Administration's support for expansion of the Dingell/ Johnson Act and creation of a new outdoor recreation commission, rather that allow discriminatory attitudes to once again pervade recreation policy-making.

Before concluding my remarks, I wish to take this opportunity to express appreciation to the Senate Energy and Natural Resources Committee and especially to Senator Malcolm Wallop, Senator McClure and the late Senator Jackson for outstanding leadership in addressing the recreation needs of America. Last Friday, this Committee unanimously reported out S.1090, a measure which would create a new National Outdoor Recreation Resources Review Commission. Speaking on behalf of an organization which has endorsed such action since 1980, we are excited and appreciative. We believe this new commission can equal the contributions made by the first outdoor recreation commission, which worked from 1958-1962, and similarly enhance the opportunities for Americans to choose among a wide array of quality recreational experiences.

In closing, we urge the Secretary-designate to recognize fully the important role he will be playing in recreation policy making. Over the course of the past two decades, Americans have dramatically demonstrated that recreation is not simply a luxury. Rather, we have seen that recreation has become as important to Americans as their most basic living necessities. For millions of hard working young Americans struggling to maintain some sense of balance in our fast-paced, technological world, recreation has become not only a source for discovering one's self but also for building strong family bonds with one's spouse and children. And for our growing legion of senior citizens, the chance to tour this great land of ours -- to visit our magnificent parks, forests and seashores -- represents a long-awaited dream come true.

Given the role of government as a major recreation provider, and the importance of recreation in the lives of Americans, it is vital that the Secretary of the Interior and the federal government assume a leadership role in spurring increased cooperation among all recreation interests, and in developing programs which provide for the broadest possible range of recreation opportunities.

To fully understand the challenges and opportunities we face in recreation, we would strongly encourage the Secretary-designate to visit federal recreation facilities and to meet with those federal employees who, together with concessioners, tourism professionals and other interests are responsible for meeting the recreational needs of our citizens.

Finally, by ushering in an era in which personalities and emotions are sublimated to the much more important question of long range policy, we believe that the Secretary-designate can play a crucial role in building a broad consensus on recreation in America and in fostering the development of creative federal programs which will reflect favorably on both Members of Congress and the Executive Branch and, most importantly, will respond to the recreation needs of the citizens they serve.

Thank you.

Senator HECHT. Thank you very much.
Mr. Maughan.

STATEMENT OF REX MAUGHAN, CHAIRMAN, CONFERENCE OF NATIONAL PARK CONCESSIONERS

Mr. MAUGHAN. Thank you, Senator.

I'm the chairman of the Conference of National Park Concessioners. I represent the 526 concessioners in our national parks throughout the Nation who are the people who take care of the food, lodging, and visitor services of the 350 million annual visitors who spend approximately $16.8 billion within our national park system each year.

I appreciate the opportunity to be here today, and to tell you of a few of the things that we feel about Judge Clark. I guess before I do that I might just add that we feel like the national parks have never been in a better condition than they are today. We are very pleased with the administration's program of the last 2½ years in helping to supplement the Park Service budget in order to improve and rehabilitate some of the visitor services in the facilities within our national parks, and we think that they are going in the right direction. We hope that Judge Clark would continue, if confirmed, would continue that policy, and continue to help in the rehabilitation of the Government's buildings and visitor facilities because I think they're very needed and necessary within our park system.

Mr. Clark is known to some of our members for many years from his organization work out in California with Governor Reagan. We, of course, know of his service in the court system in California, and of course, as we all know, his work in the Department of State, and recently as National Security Adviser. And all these positions we believe that he's performed with dedication, and intelligence, and with respect for the laws governing these various responsibilities. So we have no reason to believe he would not perform in the same manner in this new office, and in his functions. And we certainly see him as an individual who would seek for the delicate balance

between preservation and the wise and orderly public use of these special designated areas which we all cherish so much.

Judge Clark is recorded as a dedicated administrator. Certainly gives him evidence of his willingness to follow the law and handle matters with a fair and evenhanded manner. And we feel this is certainly very important for a Secretary.

Knowing the various responsibilities of a Secretary of Interior, and they cannot be learned in a single day, or in a short period of time. Our organization certainly stands ready to lend the many years of experience and expertise in the areas that we have with any types of meetings or briefings or conversations with Mr. Clark and his staff.

We feel that this, of course, is the way to have an open and free communication so the views can be understood and evaluated. We certainly have an advantage by having some of our members being involved for over 50 years within our national park system. All of these very views can be used for the orientation and education of those interested, and we'd be pleased to respond to any request in that regard.

In conclusion, let me assure you that we believe that he would tackle this position with a balanced approach between the preservation and public use of the special areas that are most important to us, and to all of our Nation. We believe that Mr. Clark appears to be a person who will seek for that balanced approached in his work, and that our organization is pleased to support and assist him in any way we possibly can.

Thank you.

[The prepared statement of Mr. Maughan follows:]

STATEMENT BY

REX MAUGHAN, CHAIRMAN

CONFERENCE OF NATIONAL PARK CONCESSIONERS

BEFORE

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

CONFIRMATION HEARINGS OF

WILLIAM P. CLARK AS SECRETARY OF INTERIOR

NOVEMBER 2, 1983

Mr. Chairman and Members of the Committee:

My name is Rex Maughan and I am the Chairman of the Conference of National Park Concessioners. Our organization is pleased today to appear and offer our views regarding the appointment of William P. Clark as the Secretary of Interior.

The duties of the Secretary of Interior are many and varied, but one of the most important of these is his stewardship as the head of the governmental department charged with the preservation, management and visitations of our great scenic, cultural and historical sites in the United States which have been designated as national parks, monuments, recreation areas, historical sites, or several other designations. It is of great importance to the people of the United States that this responsibility of the Secretary of Interior be taken most seriously with a commitment to carry out the intent of the Congress in designating these areas as being exceptional and special for the people.

The Conference of National Park Concessioners has existed almost as long as the National Park Service. It was formed as an organization to promote dialogue between those individuals and companies which contract to perform services for the visiting public to our national parks and other areas, and with the officials of the government, mostly National Park Service and other Department of Interior personnel, who have responsibilities in the National Parks area. Since the members of our organization have built their business interests upon serving the public who visit these very special areas in our country, it is logical that they are also concerned that the law is carefully followed governing their preservation and use.

The Secretary of Interior must set the policy and the tone which will be used to guide his department in the execution of its duties regarding the national parks. We believe that the law requires a rather delicate balance between the preservation and use of these special areas. Difficulties have arisen when extremists on either side have advocated an exclusive right for their viewpoint. Successful Secretaries of Interior in the past have sought a sensible balanced position which has allowed

careful adherence to the law governing the preservation of designated areas, while also allowing orderly and reasonable visitation by the public, with carefully planned services to meet visitor needs.

William P. Clark is known to some of the members of our organization from his work with then Governor Reagan in California. They also know of his service in the Court system of California, following his work with Governor Reagan. More recently we have observed his work in Washington at the Department of State and more recently as the National Security Advisor to the President. In all these positions, we believe he has performed with dedication and intelligence and with respect for the laws governing these various responsibilities. We have no reason to believe that he would not perform in this same manner as the Secretary of Interior, giving due deference to the many laws that govern that office and its functions. We see him as a person who would seek for that delicate balance between preservation and wise and orderly public use of these special designated areas.

In 1965 the Congress codified the existing practices regarding concession operations within national park areas by passing the National Park Concessions Policy Act of 1965 (P.L. 89-249). This law sets forth the guidelines under which the National Park Service contracts with private individuals and companies to provide visitors' services, as outlined in the Master Plan for each area. Time has proved that this system works well when the contracts are written in conformity with the law and are administered in fairness. Our organization believes that the system will continue to work well if a consistent policy is continued for concessions under P. L. 89-249. William P. Clark's record as a dedicated administrator and as a judge, give evidence of his willingness to follow the law and handle these matters with a fair and even-handed manner. That policy will assure the best results for the government, for the concessioner and for the visiting public.

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Knowing that the various responsibilities of the Secretary of Interior cannot be learned in one day or a brief period of time, our organization stands ready, along with many others, to lend the years of experience and expertise in our areas by frequent meetings, briefings, or conversations with Mr. Clark and his staff as he takes over his duties. Only in this way of open and free communications can views be understood and evaluated. We have the advantage of having members throughout the country, wherever there are visitor facilities within the national park system. All of those varied views can be used for the orientation and education of those interested and we will be pleased to respond to any requests in this regard.

In conclusion, Mr. Chairman and Members of the Committee, let me assure you again that while we feel the balanced approach between preservation and public use of these special areas is most important, we also believe that Mr. Clark appears to be a person who seeks for that balanced approach in his work as Secretary of Interior, and our organization will be pleased to assist him in any way possible to carry out his duties.

Senator HECHT. Mr. Ellison.

STATEMENT OF BOB ELLISON, SAMBASSADOR, GOOD SAM CLUB, AND ON BEHALF OF THE FAMILY MOTOR COACH ASSOCIATION, AND WALLY BYAM CARAVAN CLUB, AGOURA, CALIF.

Mr. ELLISON. Thank you, sir.

I'm Bob Ellison, and I'm here with my wife, Irma, as 12 years experienced campers on the road, and we certainly appreciate the opportunity to be here.

We're appearing here today with a group as members of the Good Sam Club, and the Family Motor Coach Association, and the Wally Byam Club. This is the first time that our three organizations have joined together, and that we hope it underscores the importance that we attach to the post of the Secretary of the Interior.

There are more than 24 million Americans today who are RV'ers, and we found across our Nation in rural, urban, and suburban communities alike the RV's we use are a means to an end; a way to pursue many forms of recreational activities such as fishing, boating, skiing, and hiking. The RV is an escape valve, a pressure outlet, for people to get away temporarily from the pressures of making an everyday living, as well as an economical way to enjoy a family vacation.

RVing does help many of us live enviable lives without spending huge sums of money. You see, we can pay far more for an overnight accommodation in a hotel other than a campsite in a national park, with the natural setting that we have merged with a comfortable RV is hard to beat at any price.

A growing number of Americans, including many of the members of our three organizations, find RVing a perfect style of life after retirement. The average Good Sam member, for example, is 59. On the average we spend about 40 days on the road in our RV each year. We travel to many of the spectacular and interesting places in this country to refresh our spirits, our national parks, and forests, and monuments.

These national treasures, and the experiences they offer are the focal points in the lives of many, many RV owners. We make new friends, and discover over and over the unique qualities of America's national heritage.

Mr. Chairman, we believe that it is important to understand the RV'ers represent a very large portion of the visitors to our national parks.

At Glacier National Park, for example, RV campers outnumber tents and backpackers by a great margin. Yet we believe the needs for the RV'ers in our parks are frequently overlooked in the management of national parks. It is too often oriented toward providing the wilderness experience for just a handful of Americans.

We've seen some evidence of the responses to our needs over the past 2 years, and we're here today to applaud some of this change. And we urge still more consideration by Mr. William Clark as Secretary of the Interior.

One of the results of spending your time in the national parks is that many of us RV'ers have acquired an understanding of the purposes of our national park system. From its beginning more than

110 years ago our national parks have been used to protect scenery and wildlife, and to allow Americans to see them. Transportation to the parks, lodging facilities, roads, and trails, were early priorities for our park system, and one of the men who most shaped our national parks was Stephen Mather, the first director.

Among the legacies of his vision are the major auto routes through our major western parks, and we believe the parks had to be seen—he did—to appreciate it.

Yet in recent decades our national park roadways have been neglected. Victims of a higher priority being placed on resources than visitors. Neglected too have been the maintenance and the development of new park visitor information centers. Over the past 2 years a change has occurred, and we are seeing these roadways neglected. Since the CCC crews finished in the 1930's we're seeing these rebuilt and upgraded to be safe for RV's and today's traffic.

The reason is that the 375 million of this nickel a gas tax added this year will be devoted to park roads. We also see evidence of spending on visitor centers, water and sewer systems, and other structures under the $1 billion park rehab program. These programs are good, and they are long overdue. They place some of the importance of us, and who visit our national parks, and we certainly hope that Mr. Clark will continue these programs.

And in summing this up, and on behalf of the Family Motor Coach Association, the Wally Byam Caravan Club, and the Good Sam Club, I ask that Secretary Designate Clark, and the committee, insure that we are not overlooked in the planning and management of our national parks. As a Nation we're growing older. More and more Americans are enjoying years of good health after retirement, and find RV travel an ideal way to make this time a quality part of our lives. Many of us have time and skills which we can and do put to use as volunteers in these parks.

And finally what we ask is that our need for continued access to good campgrounds, visitor centers, and ranger services, be recognized, and given the priority deserved.

Thank you.

[The prepared statement of Mr. Ellison follows:]

TESTMONY OF BOB ELLISON, SAMBASSADOR, GOOD SAM CLUB, ON THE NOMINATION OF WILLIAM CLARK AS SECRETARY OF THE INTERIOR, BEFORE THE UNITED STATES SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, NOVEMBER 2, 1983

I am Bob Ellison from Boerne, Texas, and I am appearing today on behalf of the membership of three organizations which collectively represent 500,000 families who own recreational vehicles: the Good Sam Club, to which I belong, with over 420,000 families; the Family Motor Coach Association, with 50,000 families; and the Wally Byam Caravan Club International, Inc. This is the first time our three organizations have joined together and underscores the importance we attach to the post of Secretary of the Interior.

There are more than 24 million Americans today who are RV'ers. We are found across our nation, in rural, urban and suburban communities alike. The RV's we use are a means to an end -- a way to pursue many forms of recreational activities, such as fishing and boating, skiing and hiking. The RV is also an escape valve -- a pressure outlet -- for people to get away temporarily from the pressures of making a living, as well as an economical way to enjoy family vacations.

And RVing does help many of us live enviable lifestyles without spending huge sums. You see, you can pay far more for overnight accommodations than you will for a campsite in a national park campground, but the natural setting merged with a comfortable RV is hard to beat at any price.

A growing number of Americans, including many of the members of our three organizations, find RVing a perfect style of life after retirement. The average Good Sam member, for example, is 59. On the average, we spend 40 days on the road in our RV's each year. We travel to many of the spectacular and interesting places in this country to refresh our spirits -- our national parks and forests and monuments. These national treasures, and the experiences they offer, are the focal points in the lives of many, many RV owners. We make new friends and discover over and over the unique qualities of America's natural heritage.

Mr. Chairman, we believe that it is important to understand that RV'ers represent a very large portion of the visitors to our national parks. At Glacier National Park, for example, RV campers outnumber tenters and backpackers by a substantial margin. Yet we believe the needs of RV'ers in our parks are frequently overlooked and the management of national parks is too often oriented toward providing Wilderness experiences for a handful of Americans.

We have seen some evidence of responsiveness to our needs over the the past two years, and we're here today to applaud some of this change and to urge still more consideration by William Clark as Secretary of the Interior.

One of the results of spending time in National Parks is that many of us RV'ers have acquired an understanding of the purposes of our National Park System. From its beginnings more than one hundred and ten years ago, our national parks have been used to protect scenery and wildlife -- and to allow Americans to see them. Transportation to the parks, lodging facilities, roads and trails were early priorities for our park system. One of the men who most shaped our National Park System was Stephen Mather, the first National Park Service Director. Among the legacies of his vision are the major auto routes through our major western parks -- he believed that the parks had to be seen to be appreciated.

Yet, in recent decades, our national park roadways have been neglected, victims of a higher priority placed on resources than visitors. Neglected, too, have been the maintenance and the development of new visitor information centers.

Over the past two years a change has occurred. We are seeing those roadways neglected since the CCC crews finished in the 1930's rebuilt and upgraded to be safe for RV's and today's traffic. The reason is that $375 million of the nickel a gallon tax added this year will be devoted to park roads. We also see evidence of spending on visitor centers, water and sewer systems and other structures under the billion-dollar Park Rehabilitation and Improvement Program.

These programs are good and they are long overdue. They place some of the importance on us, the RV'ers, and on others who visit our national parks. And we certainly hope that Mr. Clark will continue these programs.

But we still have a way to go. Decisions about our parks continue to be made with an unnecessary bias against visitors. For example, in Yellowstone, the only campgrounds with RV facilities are being closed to expand grizzly habitat. Yet no new sites are being developed to replace these areas, despite the fact that in the summer, these areas are 100% full every night.

Another situation that concerns us is the lack of a centralized campsite reservation service. Despite the availability of computers and communications advances, less than ten national park areas allow travelers to reserve a campsite in advance.

On behalf of the Family Motor Coach Association, the Wally Byam Caravan Club and the Good Sam Club, I ask that Secretary-designate Clark and this Committee insure that we are not overlooked in the planning and management of our national parks. As a nation, we are growing older. More and more Americans are enjoying years of good health after retirement and find RV travel an ideal way to make this time a quality part of our lives. Many of us have time and skills which we can and do put to use as volunteers in the parks.

What we ask is that our needs for safe roads, good campgrounds, visitor's centers and ranger services be recognized and given the priority deserved.

Thank you.

Senator HECHT. Mrs. Ellison, would you like to make a statement?

Mrs. ELLISON. Just a short one that I'd like to say to Mr. Clark. He said this morning that he was a grandfather. Well, I'm a grandmother, and a great-grandmother, and I hope he keeps these parks open so we can take those children and let them have the fun that Bob and I have had through the years.

Senator HECHT. Thank you.

To each of you panelists, hearing you speak and sit in my position is like the preacher preaching to the choir. I come from Nevada, so I agree with everything that you've said, the last panel. And anything we can do in our State to encourage all of your members to come out, we'd be most happy to.

Thank you very much.

Ms. Kokinda, please.

Ms. KOKINDA. Thank you, Mr. Chairman.

STATEMENT OF SUSAN J. KOKINDA, NATIONAL DEMOCRATIC POLICY COMMITTEE, NEW YORK, N.Y.

Ms. KOKINDA. I am here representing the National Democratic Policy Committee, which is a multicandidate PAC representing 30,000 members around the United States, with chapters in 43 States.

We currently are backing several hundred candidates running in elections around the country who are quite dissatisfied with what they perceive as the zero growth policies of the national leadership of the Democratic Party.

We support the nomination of Judge William Clark. Much has been said in the press and elsewhere about the fact that a certain expertise has been lacking in the areas which he will be responsible for. We feel that his tenure at the National Security Council and prior to that at the Department of State indicate that he has a quality of outlook which will very much equip him to deal with the problems of the Interior Department to assimilate whatever particular expertise is necessary.

There is one particular aspect of his tenure at the National Security Council, which I would like to point to as exemplary and really quite extraordinary, and indicative of the fact that perhaps we could use a bit more kind of so-called inexperience that Judge Clark represents.

For 30-odd years now, the United States has labored under a strategic doctrine known as mutually assured destruction, and the United States holds its population hostage and the Soviet Union allegedly is holding its population hostage.

President Reagan on March 23 made an extraordinary break from that suicidal doctrine in his so-called "Star Wars" speech, but a speech which laid out the promise for a new strategic doctrine in the United States based on the notion of strategic defense, based on directed-energy beam weapons systems.

It is well known that Judge Clark and Defense Secretary Weinberger were two of probably the most seminal people in the administration advocating and supporting the President's break with 30 years of the Mad doctrine.

We think that was one of the most historic and important strategic statements in postwar history, and the fact that Judge Clark and the others who were instrumental in making that decision could break from the standard policies of the foreign policy elite is indicative, as I say, of the fact that we could use perhaps a bit more of the kind of so-called inexperience that Judge Clark represents.

We think there are two key qualifications that any Cabinet officer has to fulfill. We think Judge Clark fulfills both of them. The first is that an individual must recognize the gravity of the strategic situation the United States is in at this point. You are facing an adversary which is embarking on a course of strategic terror, and I think the only thing the Soviet Union will respond to is the restoration of the United States as an economic superpower, a superpower for peace, if you will, in the United States.

It is from that standpoint that I think any Cabinet officer has to evaluate what particular policies he must follow, as that applies to the Department of the Interior with critical policies such as strategic mineral development and water development; I think it is extraordinarily important that the administration and Judge Clark begin to think big, in the terms that will restore this United States to an industrial agricultural giant.

By big I mean things such as the North American Water and Power Alliance. This is a project wich will bring water from Alaska and from Canada, which will irrigate large portions of the western portion of the United States, and can irrigate parts of Mexico.

This is a project which will cost at least $200 billion. This is what I mean by big. But the alternative to that is that the agricultural potential of the American West, which sustains not only our own food needs, but the food needs of much of this world at this point, is going to run out of water in several—in probably less than second decades.

Water is already an increasingly scarce commodity out there, and the alternatives which are being put forward at this point in terms of free market pricing of water and letting the market do its thing, will simply mean that our cattle industry, our agricultural capabilities, and our ability to feed the world is going to dry up.

That brings me to the second critical criteria, I think, for a Cabinet officer, and that is that a nominee must recognize the scientific implications of the injunction in the Book of Genesis that "Man must be fruitful, multiply, fill the Earth, and subdue it."

I am not bringing this up in a religious context. I would like to keep the ACLU off my back. I am bringing that up in a scientific context; that is, populations must increase and technology must advance. We can neither go backward nor can we stay in a steady state situation.

The alternative, as I think the water situation and NAWAPA indicate, is that we will cease to be able to feed the world, and individuals will die in the development sector.

I think it is important that a nominee understand this. I think Judge Clark has that particular qualification to understand that. I hope he feels well armed to take on the environmentalists.

In conclusion, I would like to say that I think there must be a certain truth in advertising, in the discussions that are currently going on.

There is a lot of emotionalism involved in the questions of environmental policy. There is a lot of headline grabbing, but there are certain basic economic facts. If the United States does not restore itself to being an economic superpower, if we do not help to export American methods, American technology, the American system of economics, people will die in the Third World. They have died because of the irrational and misguided environmental policies.

I hope Judge Clark is able to judge policies on the basis of their consequences, not on the basis of emotional appeals to the Washington Post headlines.

On those two criteria, we feel that he is amply qualified, and support him most wholeheartedly.

Thank you.

[The prepared statement of Ms. Kokinda follows:]

National Democratic Policy Committee
P.O. Box 26 Midtown Station, 229 West 38th Street New York, New York 10018

Testimony of Susan J. Kokinda
for the National Democratic Policy Committee

Nomination of Judge William Clark
as Interior Secretary

November 2, 1983

The National Democratic Policy Committee (NDPC) is a registered multi-candidate political action committee and membership organization. The NDPC represents 30,000 members, with chapters in 43 states. The NDPC is currently backing a slate of several hundred candidates running in elections across the country.

The NDPC supports the nomination of Judge William Clark to be Secretary of the Interior. His tenure at the Department of State and as head of the National Security Council has proven that, whatever the formal trappings of "expertise" might be initially lacking, Judge Clark brings with him a quality of world outlook and a loyalty to the President which qualifies him to assume the responsibilities of directing the Interior Department.

One particular development during the tenure of Judge Clark at the NSC exemplifies this point. It is well known that Judge Clark and Defense Secretary Weinberger were, and have remained, the main supporters of the President's decision to call for the development of a program for directed-energy beam weapons for purposes of strategic defense. The President's March 23 announcement represented a break from a decades-long embrace of the so-called strategy of Mutually Assured Destruction, in favor of a strategy of mutually assured survival. NDPC Advisory Board Chairman Lyndon H. LaRouche, Jr., called for such a change in doctrine fully one year before the President's historic announcement and has identified that presidential decision as one of the most important strategic events in post-war American history. Despite the opposition of the "Strangelovians" in the Administration, of Yuri Andropov's assets in the freeze movement, and of detractors in the press, the President and his close advisors have pushed forward with the policy. As has been widely reported, the two panels charged with developing a program for the development of directed-energy beam weapons have made favorable reports and have called for an aggressive U.S. effort.

That Judge Clark would play an active role in the making of such an historic and vitally necessary decision, despite his alleged initial "inexperience" of the ways of the foreign policy elite, suggests that this country could use a bit more "inexperience" of that sort. Although the NDPC would be more comfortable with Judge Clark continuing to serve as head the the NSC, we feel, nonetheless, that he is amply qualified to serve wherever the President deems necessary.

Judge Clark fulfills the two qualifications which the NDPC feels are vital to this position. First, it is incumbent upon any Cabinet officer to recognize the gravity of the strategic situation and carry out his duties accordingly. The Soviet Union is embarked on a course of strategic terror--one aimed at humiliating the United States and eliminating it as a superpower. Certain policies are demanded to meet this threat. The only thing to which the Soviet will respond at this point is the embarcation by the United States on a crash program for directed energy weapons systems and related technologies.

But such a Manhattan Project-style approach absolutely necessitates an industrial mobilization within the U.S. along the lines of the World War II economic mobilization. Certain responsibilities of the Interior Secretary, most notably in the areas of mineral policy and water development, are defined by such a mobilization. In other words, now is not the time to think small and to cripple development policies by budget balancing fixations. For the U.S. to become an industrial and agricultural superpower once again we must think on the order of the $200 billion North American Water and Power Alliance (NAWAPA) which will bring water from Alaska to the western portion of the U.S. and Mexico.

Indeed, it is on the issue of water policy that the NDPC parts ways with current Administration policy. The increasing insistence on cost-sharing and private sector financing is dead wrong and a repudiation of the policies upon which this country was built. This notion that government spending for water projects or vital research and development is a boondoggle and a "subsidy" is nonsensical and destructive. The American System of economics as it was developed, elaborated and applied in the 19th century was to create the credit and investment conditions for the growth of industrial capitalism. Indeed, the best ally that Yuri Andropov has at this point is the radical free market ideology that is attacking the proper and necessary government role in fostering water and nuclear power development.

The issue of NAWAPA makes this most clear. Either we "subsidize" its development to the tune of $200 billion and ensure cheap, plentiful water for future generations, or we shall cease to be either an industrial or an agricultural superpower.

The second qualification which we locate applies to every Cabinet officer as well, but has special relevance to Interior: that is, that the nominee must understand the scientific implications of the injunction in the book of Genesis that man must be fruitful, multiply and fill the earth and subdue it. This is not a religious requirement, but a scientific one. The implication of that injunction is that man must advance technologically and must increase his population. The alternative is for a civilization to collapse and die. I have apended a recent treatment by Mr. LaRouche on the scientific imperatives behind increasing population growth while advancing scientifically. Indeed, the scientific definition of the health of an economy and hence of a civilization is its potential relative population density. We have gone from a hunting and gathering mode of living which sustained a potential relative population density of .06 to .01 people per square kilometer (or about 10 million people worldwide) to today's potential relative population density which sustains 4.5 billion and could sustain tens of billions at current levels of technology, and at current standards of living equal to or higher than that of the U.S. today. No beast, or lower form of life can willfully increase its potential relative population density. That is what distinguishes man from beast. It is the divine spark of Reason which allows man to intervene upon nature and to "subdue the earth."

The malthusians of international organizations such as the Club of Rome and the domestic panoply of environmental groups deny that difference. They are decidedly anti-human, in that scientific sense.

Indeed, it is ironic that Interior Secretary James Watt was drummed out of office on the basis of remarks which implied that Mr. Watt was a racist or

insensitive to the handicapped. If anyone has ever bothered to look at the history of the environmental/conservation movement in this country, they would find that these movements sprang -- lawfully -- from some of the most reprehensible ideologies that the world has ever faced. The anti-human bias of the malthusian ideology has taken a decidedly white Anglo-Saxon racist form in times past. The following quotes are representative of speeches given to the flagship National Conservation Congresses between 1909 and 1912, during the heyday of Gifford Pinchot's and Teddy Roosevelt's conservation movement. These proceedings may be found in the Library of Congress.

"Each child and each generation naturally inherits not merely parental traits but their share of community and state. Already conservation and eugenics and rituous decrial of race suicide are awakening a new sense of generational re sponsibilities." Mr. McGee, U.S. Department of Agriculture, 1911 proceedings.

"The highest development of nations will begin when the human law conforms to God's law of development, and parenthood is denied to defectives..To go along in the future as in the past, permitting, even fostering the production of the hereditary insane, of the herediatry pauper and criminal, of the hereditary feebleminded will mean that we have not the common horse sense for the proper conduct of our affairs (applause)..." Dr. J.N. Hurt, President of the American Public Health Association, 1912 proceedings.

"This worldwide movement for conservation of human life has expressed itself in many ways . . . and last and most important in the sudden development of the science of eugenics." Prof. Irving Fisher, Yale, 1912 proceedings.

By the 1930's this movement was a full-fledged eugenics movement fostered and funded by leading political families in the U.S. such as the Harrimans and the Osbornes and the Morgans. The history of the 1932 International Eugenics Conference, held at the American Museum of Natural History, and honoring leading German race scientists is interesting reading indeed.

We raise this issue because it is time for a bit of truth in advertising. Whatever the nominal trappings of the environmental movement today, the implications of its zero-growth policies are no different from their forebears at the turn of the century or in the 1930s. Millions of people in the developing sector will die, quite simply, because of the curtailment of economic growth, because, for example, nuclear power has not been exported to the Third World. This is simple economic fact. The Global 2000 report advocates the reduction of the world's population by 2 billion by the year 2000. It is impossible to do that through the curtailment of the birth rate, as even the most aggressive population controller will admit.

The Secretary of the Interior must judge policies on the bases of their consequences not on the basis of their emotional appeal to slogans or newspaper headlines. We trust that Judge Clark will do so.

In conclusion, external events may soon compel the U.S. to embark upon a strategic mobilization and a concomitant industrial mobilization -- the likes of which have not been seen for 40 years. It is from this perspective that we evaluate the qualifications of a Cabinet officer. Judge Clark is most qualified.

Senator HECHT. Thank you very much.

Mr. Bennett.

Mr. BENNETT. Yes. I have submitted a statement. I would just like to paraphrase it.

STATEMENT OF MICHAEL J. BENNETT, WASHINGTON, D.C.

Mr. BENNETT. I appear here as a writer, sir. I don't have any of the credentials of the other witnesses. I am not a lawyer; I am not an economist; I am not a representative of industry or a champion of the environment, but I would suggest to you that the reason we are here, not only in this Chamber is because of writers, and particularly are concerned with the environment.

That concern was generated in large part by a single book, "Silent Spring," by Rachel Carson.

She is not the only writer. There have been many writers who have followed her, who have examined her premises, who have examiner the assumptions and presumptions of the environmental movement.

Many of them have been found at fault. Unfortunately, the manner in which this difficult area has been presented has been more in the style of a comic book than any long-range analysis, or any in-depth analysis.

I might point out, for example, that President Reagan, during the campaign of 1980, made some comment to the effect that trees causes smog, or contribute to smog, for which he was roundly pilloried in the media.

Anyone who would call up a botanist would have found out that, in fact, trees are just the things that make up oil, and oil emits hydrocarbons, and, in fact, the Environmental Protection Agency had commissioned a study for $112,000, to determine what contributions smog—trees in the heat of the summer made to smog.

What we have here is a holy crusade, which I am afraid could end up polluting politics itself, by ridding elected officials and their appointed officials of the right to make judgments where conflicting evidence is in conflict and where there are no definitive answers.

I would only suggest that there is substantial literature. I have added a list of bibliography, which is only a partial list here, and I might add from my own experience that I have lived in the West, in Montana in particular, but I am from Boston, and I have the feeling that many of the people who are now so concerned about the environment are not unlike the people who not so many years ago were suggesting that no Irish need apply.

I have a feeling that many of them would feel that no people need apply in our national parks. And I would just like to conclude by reading this final statement, that I do believe the environmental movement has made a contribution to a new species of animals.

I am reading now from the 1982 McGraw Hill Encyclopedia of Science and Technology, in reference to the concept of an endangered species.

It is estimated that more than 1,000,000 species of animals have been described, and new ones are becoming known at the rate of about 10,000 a year. The task of naming, characterizing and cataloguing this tremendous number of species has re-

quired the cooperating efforts of systemacists from all parts of the world during the last 200 years, and the job is far from complete.

I would like to make my own contribution to that. I think that there has been a new species developed, or that has come about in the genus politicus Washingtonias.

I am confident that this is an entirely new species, a very strange duck indeed, although entirely indigenous to this area, perhaps the first to be spawned by a book, "Silent Spring." I have given it the name lobbyist naturaphile.

The plumage of the species, Mr. Chairman, is virtually identical to that far better known species, lobbyist industriaphile.

Both nest in the same locale, roughly along the K Street corridor, and both frequent the same watering holes in the area.

They can be distinguished, however, by their tastes in food. Industriaphile usually prefer red meat; naturaphile has a taste for fish and chickens.

Both share the common task of feeding another species which flourishes along the banks of the Potomac known as media carnivorae, by a process known as regurgitation.

All three are considered parasites of the species, politicae appointae and electus and have been known to turn cannibalistic when fed memos, reports, preferably purloined, and off-the-cuff remarks.

I suggest that if Mr.—and I hope that Mr. Clark is confirmed—that he can bring these groups all to heel by waiving a card from the Library of Congress and asking them, "Have you read any good books recently?"

[The prepared statement of Mr. Bennett follows:]

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THE POLLUTION OF POLITICS

Testimony

of

Michael J. Bennett

at

Confirmation Hearings on William P. Clark

as

Secretary of the Interior

before

The Committee on Energy and Natural Resources

Mr. Chairman, I come before this committee without any of the credentials of the other witnesses. I am neither a lawyer, nor an economist, a representative of industry nor a champion of the environment, an elected offical nor a civil servant.

I am only a writer

But, may I suggest, Mr. Chairman, that if it weren't for writers -- and, in particular, one writer, Rachel Carson, author of Silent Spring -- none of us would be here today. Writers, after all, give voice and expression -- and, hopefully, understanding -- to the ideas, values and beliefs through which we govern ourselves -- at different points in time.

But not all writers are right in what they write, and not all they write is true throughout time. That, I'm afraid, is the case with Rachel Carson.

Certain ideas, values and beliefs are immutable and transcend time. Others are ephemeral and transitory, the vogues and fashions of passing generations. These fleeting fads, however, can and do sometimes appeal to a dark streak of dogmatism and absolutism in Americans, and give rise to political movements characterized by religious intensity and moralizing fervor, staffed by well paid apologists.

The result can be a holy crusade, in which facts are prostituted to fancies, appeals to the emotions are substituted for reasonable arguments, and lies, both conscious and unconscious, become the common currency of discussion.

This is what I, and many of the writers whose books and articles are cited in a bibliography attached to this testimony, believe has happened to the environmental movement.

It has become a holy crusade, the moral equivalent of the Prohibition movement, intolerant of dissent, eager to stretch reality to fit preconcieved concepts, and ready to pollute the political process itself. Those who came to do good are now eager to do well.

What they seek is not just the pollution, but the ultimate

corruption of politics -- the pragmatic, common sense give and take by which elected officals and their political appointees try, in the absence of definitive, scientifically verifiable evidence to balance the conflicting interests of citizens and consumers, workers and investors, city dwellers and country residents alike -- by the replacement of democratic, representative democracy with all its fault by the infallible and totalitarian rule of those who know best for the rest of us.

Mr. Chairman, I am not asking you to accept my unsupported word for these allegations. The overwhelming weight of evidence behind them is provided in the books and articles cited in the bibliography, written by physical scientists, political scientists, linguistic and literary critics, historians and journalists, liberal, moderate and conservative, many with impeccable credentials from such noted universities as Harvard and Oxford.

Their words, their writings admittedly defy the common wisdom, offend the accepted pieties, mock the verities preached in the editorial columns of the Washington Post and the New York Times, and the other guardians of the right and proper thing to think.

But that, Mr. Chairman, is the function, the purpose, the raison d'etre of the writer. Rachel Carson fulfilled that function, served that purpose when she wrote Silent Spring. She defied, she offended the smug optimism of those who, at the time, believed that science had the answer to everything. And she warned, prophetically enough, that in trying to save us from the ills the flesh is normally heir to, we might be releasing forces we wouldn't understand and might not be able to control.

But, if she was right in saying the unbridled and uncontrolled use of pesticides such as DDT in our forests and streams killpests but also presented a risk of upsetting and irreparably damaging the balance of nature and nature's creatures, she was also wrong.

Rachel Carson was wrong.

Rachel Carson was wrong in arguing, through the adroit and powerful use of metaphorical language, that the widespread use of chemicals was somehow responsible for an alarming increase in cancer rates. She was wrong, in stating flatly and unequivocably in words italicized on page 221 of the hardcover edition of Silent Spring, that one quarter of all pre-school children die of cancer. She was wrong because she must have known the primary reason pre-school children were dying of cancer, principally leukemia, was because they weren't dying of the innumerable diseases conquered by science in the early and middle parts of the 20th century.

She was wrong, and she must have known she was wrong, because she was personally responsible for the inoculation of a nephew, her ward, against diseases such as polio, diptheria and smallpox which have been brought under control. She was wrong because, even before her death 20 years ago, the death rate from childhood leukemia was dropping -- and has plummeted since.

Rachel Carson was wrong about cancer. Even her biographer and defender, Frank Graham, had to admit it in Since Silent Spring: "It would be dishonest today to brand chemical pesticides as a major cause of cancer and birth defects."

But Rachel Carson wasn't wrong just because her thesis was mistaken. She was wrong because she was willing to exaggerate and distort evidence to arouse public concern over possible dangers. She was wrong, and so, too, was William Ruckelshaus back in 1972 when he overturned the independent judgement of his own legal examiner to ban DDT as a carcinogen, even though there was no evidence it was, in fact, a cancer causing agent. He was wrong in surrendering his independent judgement as detailed in Ecological Sanity by Dr. George Claus and Dr. Karen Bolander to the ignorant fears of powerful lobbies.

He was wrong, as was Jimmy Carter, in ordering the evacuation of Love Canal in 1980 on the basis of scientific evidence denounced as totally inadequate by Science, the offical publication of the American Association for the Advancement of Science, and other authoritative publications.

Ruckelshaus has since admitted his reasons were "political," but claims they were "political with a small 'p.'" Jimmy Carter might well lay a similar claim. It may be only a coincidence or an equation of electoral algebra, both both decisions were made just five months before the Presidential elections of 1972 and 1980.

Whatever the rationale, Carson, Ruckelshaus and Carter were wrong because, like too many of their followers and allies in and out of the environmental movement and government, they were willing to use bad means to achieve good ends.

The words of an editorial in The New York Times on June 19, 1981 applies to all of them: "From what is now known, Love Canal (and DDT the Times might have added), perhaps the nation's most prominent symbol of chemical assaults on the environment, has had no detectable effect on the incidence of cancer. When all the returns are in, years from now, it may well turn out that the public suffered less from the chemicals there than from the hysteria generated by flimsy research irresponsibly handled."

But we don't have to wait until then. Solid research, responsibly handled, has clearly established Rachel Carson was even more fundamentally wrong in her basic assumption that nature is good and only man is vile.

"Nature is not benign," Dr. Bruce Ames, chairman of the department of biochemistry at the University of California, has concluded in an authoritative article on the causes of cancer published in the September 23 edition of Science. It turns out, as the Washington Post gloated in an editorial of September 17 that carcinogens lurk, not only in man-made food additives, but in natural, unprocessed, 100 percent pure "alfalfa sprouts. Yes, by God, alfalfa sprouts and not M&Ms, for once.... (And) Get this: celery, parsnips

and figs teeming with potent light-activated carcinogens and mutagens. Beets, radishes, spinach and rhubarb harbor possibly harmful nitrates...(T)here certainly is at least an intimation of a more perfect justice here. It seems to us only equitable and fitting that if humankind is being asked to swear off chocolate milkshakes and baconburgers, it should be allowed to swear off parsnips as well."

Unfortunately, the editorial writers of both the New York Times and the Washington Post have not yet, apparently, seen fit to share their new knowledge about pollution and nature with their own reporters and headline writers. That, of course, only proves what anyone who has ever worked as a journalist knows -- and the public and politicians suspect: If you only know what you read in the newspapers or hear and see on television and radio, you're bound to be confused. New truths cannot be allowed to contradict old dogma.

And that, Mr. Chairman, leads me to the only recommendation I have to make to you, this committee, and, by extension, to the secretary designate.

When Rachel Carson was researching Silent Spring, she was concerned about the possible disappearance of wild birds, including ducks. Well, Mr. Chairman, as any botanist can tell you there are very few endangered species of animals in the world. In fact, according to the 1982 McGraw Hill Encyclopedia of Science and Technology, and I quote:

"It is estimated that more than 1,000,000 species of animals have been described, and new ones are becoming known at the rate of about 10,000 a year. The task of naming, characterizing and cataloguing this tremendous number of species has required the cooperating efforts of systemacists from all parts of the world during the last 200 years, and the job is far from complete."

Mr Chairman, as a systemacist who has studied political science from the perspective of newspaper reporter for the old Boston Herald and former Boston Record-American in the 1960's, a Congressional Fellow of the American Political Science Association in 1971-72, a public information officer for several federal agencies in the 70's and a free lance writer here today, I would like to make my own contribution to this task on naming, cataloguing and characterizing a new species in the genus politicus Washingtonias.

Mr. Chairman, I am confident this is an entirely new species -- a very strange duck indeed, although entirely indigenous to this area -- perhaps the first to be spawned by a book, Silent Spring. I have given it the name lobbyist naturphile. The plumage of the species, Mr. Chairman, is virtually identical to that far better known species, lobbyist industriaphile.

Both nest in the same locale, roughly along the K Street corridor, and both frequent the same watering holes in the area. They can be distinguished, however, by their tastes in food. Industriaphile usually prefer red meat; naturaphile has a taste for fish and chicken.

Both share a common task of feeding another species, which flourishes along the banks of the Potomac, known as media carnivorae by a process known as regurgitation. All three are considered parasites of the species, politicus appointae and electus, and have been known to turn cannabalistic when fed memos, reports, preferably purloined, and off-the-cuff remarks.

They are particularly fond of one page memos, which, I understand, the secretary designate was responsible for preparing in his previous position. But I am confidentially and exclusively informed, if cofirmed, he can bring all three quickly, if snarlingly, to heel, by waving a card from the Library of Congress and cheerily asking, "Read any good books recently?" Reading and thinking doesn't come naturally to them.

I commend the following constricted but nevertheless extremely informativ list of books and articles to the committee and secretary-designate. Copies of my own articles have been submitted to committee staff.

Progress and Privilege: "America in the Age of Environmentalism," William Tucker, Doubleday, 1982.

The Causes of Cancer: "Quantitative Estimates of the Avoidable Risks of Cancer in the United States Today," Richard Doll and Richard Peto, Oxford University Press, 1981.

The Environmental Protection Hustle, Bernard Frieden, MIT Press, 1978.

Illness as Metaphor, Susan Sontag, Farrar, Straus & Giroux, 1978.

John Muir and His Legacy: "The American Conservation Movement," Stephen R. Fox, Little, Brown, 1981.

Ecological Sanity, Dr. George Claus and Dr. Karen Bolander, David McKay & Co., 1976.

Conquering Cancer, Lucien Israel, Random House, 1978.

Are Pesticides Really Necessary?, Keith C. Barrons, Regenery-Gateway, 1981.

DDT: Scientists, Citizens and Public Policy, Thomas R. Dunlap, Princeton University Press, 1981

Love Canal: Science, Politics and People, Adeline Gordon Levine, D.C. Heath & Co., 1982.

One Hundred Percent Natural, Purely Organic, Cholesterol-Free, Megavitamin, Low Carbohydrate Nuitrition Hoax, Dr. Elizabeth Whelan and Dr. Federick Stare, Atheneum, 1983. Also by Whelan printed by Atheneum, Preventing Cancer, 1978, and Panic in the Pantry, 1975.

All articles in Science and The Lancet on the relationship between cancer and the environment.

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Senator HECHT. Thank you very much.

Ms. Kokinda, I was weighing your remarks. Your title here is Washington representative for the National Democratic Policy Committee, but I will comment you on your nonpartisan remarks.

Ms. KOKINDA. Thank you, Mr. Chairman.

Senator HECHT. Thank you very much, both of you.

Mr. BENNETT. Thank you, sir.

Senator HECHT. Panel No. 6, please.

Is Mr. Smith in the audience first?

[No response.]

Senator HECHT. What about Ms. Dunlop?

[No response.]

Senator HECHT. I guess not. Mr. McCloskey, would you like to start, please.

STATEMENT OF MICHAEL McCLOSKEY, EXECUTIVE DIRECTOR, SIERRA CLUB

Mr. MCCLOSKEY. I'm the executive director of the Sierra Club. It's headquartered in California, and I'm from San Francisco.

As I'm sure you're aware the Sierra Club is a nationwide environmental organization of over 350,000. It's dedicated to the enhancement of both the human and the national environment, and it's concerned, among other things, with the wise use and protection of our public lands.

I've listened to the proceedings here with great interest. I was struck by two things, the variety of the interest, and the questions from the Senators on both sides of the aisle, and the fact that the U.S. Senate has had no more luck in coaxing any specific policy committments from Judge Clark than did the top leaders of the Sierra Club, and other environmental groups in their meetings with him.

Ultimately it appears that the White House would like you to confirm Judge Clark simply on the basis of blind faith. Unfortunately, at the end of the Watt era this easy course is no longer palatable. The context of these confirmation hearings should be crystal clear.

Unlike the hearings for Secretary Watt himself it is not the case that key administration policies remain to be formulated. It is not enough for the Secretary Designate to indicate a willingness to study the issues, and to consult widely.

The administration's policies on public lands and the environment are well established, both in practice and in the mind of the public. As a direct result of these policies the former Secretary has resigned in disgrace, and amid almost universal sighs of relief.

In confirming the new Secretary this committee should have received clear committments from Judge Clark to make specific changes in policy, as well as changes in the top personnel of the Department. These would have signaled the new more balanced direction of the policies of the Department. But no such committments were forthcoming.

It is with regret that we must ask you to oppose the nomination of Judge William Clark. Despite his graciousness in meeting with us, the evident change in demeanor that he will bring to the De-

partment, we cannot endorse any candidate for this job who is not willing to clearly and publicly renounce the excesses of the Watt era.

On this count, on the fundamental issue of what changes in policy can be expected, neither you nor we have received any reassurance either from Judge Clark himself, nor from anyone else in the Reagan administration.

Our decision to call for the opposition in the Senate to the nomination of Judge Clark is based on three things. Our judgment of his environmental record drawn from an analysis of his past participation in environmental issues; his responses to our questions in several meetings in which he graciously allowed us to present our concerns to him; and the absence of any indication from the President or other significant figures in this administration of any likely improvement in the department's policies.

In our review of Judge Clark's environmental record we found little evidence that he has any particular experience with, or expertise in, a broad range of environmental issues which will come before him as Secretary of the Interior.

However, in those areas of his past public service, which did involve matters of environmental concern, there's little to reassure anyone concerned with the future of our natural resources and public lands policies.

As part of our review attorneys for the Sierra Club's legal defense fund prepared a detailed analysis of Judge Clark's role in 17 major environmental cases in which he participated as an associate justice of the supreme court of California. We've attached the results of our review to our testimony.

In each of the 17 cases we analyzed Judge Clark sided with developmental interest, and against environmental protection. And I might add that one third of those cases were decided by the court before any appointees from Gov. Jerry Brown's tenure term joined the court.

In 15 of those cases Judge Clark dissented from the majority position. In over half of those cases Judge Clark voted to override local enactments. Thus, the anti-environmental pattern in his decisions can't simply be explained away as a reflection of a philosophy of judicial restraint.

Mr. Chairman, how much more time? Is that the expiration of my time?

Senator HECHT. Well, take another minute to summarize. How's that?

Mr. MCCLOSKEY. All right.

It should be clear now that the administration's environmental record has become the subject of true national outrage. This administration has refused to purchase new national park lands, even where money has been appropriated. For the first time in 20 years this administration has proposed to drill for oil and gas in national wildlife refuges. It's eliminated over 1 million acres of land from congressionally mandated wilderness reviews. It's attempted to sell off millions of acres of public lands. It's proposed to sell off more coal from public lands in 1 year than other administrations have in 63 years. It's weakened environmental laws and enforcement again and again.

We view this as a radical record, not a conservative one, and one that has to be turned around. As I said, we have looked in vain for some signal that there is an intent to do it. We see none in the offing, and in light of that we urge the Senate to vote down his nomination as Secretary of the Interior.

[The prepared statement of Mr. McCloskey follows:]

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STATEMENT

OF

MICHAEL MCCLOSKEY

Executive Director

Sierra Club

Before the

Committee on Energy and Natural Resources

United States Senate

On the Confirmation of

William P. Clark

To Be

Secretary of the Interior

Washington, D.C.

November 2, 1983

Mr. Chairman, Members of the Committee,

My name is Michael McCloskey. I am the executive Director of the Sierra Club. We are a volunteer based organization with over 350,000 members across the nation, dedicated to the conservation of our nation's natural resources and the enhancement of the human environment. We are also the nation's oldest environmental organization. Our relationship with Presidents and past Secretaries of the Interior dates from 1903, when John Muir took Teddy Roosevelt on a camping trip in the valley of the Yosemite River, a wild area for which Muir was seeking protection as a national park.

When President Reagan made the announcement of his choice of National Security Advisor William P. Clark to succeed James Watt as Secretary of the Interior, we were as surprised as anyone in this room. In consultation with our volunteer leadership, we determined to seek a meeting with Judge Clark in order to explore his intentions concerning our nation's critically important environmental and public lands policies. Before taking any stand on his fitness as a candidate, we also attempted to unearth and analyze his previous record on environmental issues. Finally, we carefully waited for any signal from the Administration as to the President's intentions with regard to the nomination, and as to the policies under the jurisdiction of the Interior Department.

Since that surprising day, we have met and talked several times with Judge Clark. We have explored, as far as we were able, his previous record on issues of environmental concern, and have asked him directly for any indication he could give of the policy emphasis which he will bring to the Department. We have continued to wait for some signal from the Administration that it has recognized the policy failures which led to Secretary Watt's downfall, and that it is determined to correct the course taken in the last two and a half years at Interior.

It is with regret, rather than with anger, that we must ask you to oppose the nomination of Judge Clark. Despite his graciousness in meeting

with us, and the evident change in demeanor that he will bring to the Department, we cannot endorse any candidate for this job who is not willing to clearly, and publicly, renounce the excesses of the Watt era. On this count, on the fundamental issue of what changes in policy can be expected, we have received no reassurance, either from Judge Clark or from anyone else in the Reagan Administration.

Until Ronald Reagan became President of the United States, it mattered little to conservationists which party held the White House. While there have been significant differences in style and substance on environmental issues, Republicans and Democrats alike can be justly proud of their party's part in shaping the most enlightened environmental laws of any nation. The preservation and protection of this nation's environment has always been a bipartisan effort.

It was a Republican President, Ulysses S. Grant, who established the first National Park, Yellowstone, in 1872. Another Republican, Theodore Roosevelt, established the federal government's role in the conservation and enhancement of our land and its resources. In modern times, another Republican President, Richard Nixon, contributed greatly to the national environmental protection effort. He signed into law the Clean Air and Water Acts, the National Environmental Policy Act and by executive order, created the Environmental Protection Agency. More recently, President Carter fought for and won the creation of the Alaska Lands Act - the greatest single addition to our national treasure of parks and wild areas.

It is of extreme concern that the top leaders of this Administration, including the President himself, apparently view this bipartisan conservation effort as a thing of the past - even as a mistake, as a surrender to "preservationists," and as a policy to be repudiated in favor of the no-holds barred development of our public lands.

That this radical commitment to exploitation, which sees little value in parks, wilderness, or the beauty of the American land, should travel under the banner of conservatism is perhaps the greatest irony of all. Since the time of Burke, conservatism has been identified with an attitude

which gives great weight and respect to tradition, to the process and the spirit of the law, and to the care of the resources upon which the future of a nation depends. Up to this point, where issues of environmental policy are concerned, the Reagan Administration is the farthest thing from conservative.

This is an administration in which scientific advisors to the Department of the Interior have been screened for political loyalty by the Republican National Committee. This is an administration in which the legal opinions of regional solicitors have been recalled like defective cars if they reflect badly on decisions made by the Secretary, and in which the Secretary of Interior declared his intent to use the budget process to make policy changes which he was unable to accomplish legislatively. This is an administration in which the Assistant Secretary, charged with the statutory mandate to recover the "fair market value" of leased energy resources, has publicly proclaimed that, "It is not the objective of this administration to squeeze the last crying dime out of our coal resources." This is an administration in which the top political appointees in the Department of Interior have called themselves "true believers", and have spoken proudly of their efforts to transform their department into a "one stop shopping market" for energy developers.

This is an administration which has proposed the sale of more of the public's coal in one year than 11 other administrations have sold in 63 years. This is an administration which declared, as a settled legal opinion, that it was obliged to process oil and gas leases in wilderness areas, and when this curious doctrine was repudiated by Congress, generously agreed to protect existing wilderness areas by enacting a "sunset" provision which would open the entire wilderness system to energy development in 17 years. This is an administration in which the long American tradition of conservation, the legacy of greats such as John Muir, Bob Marshall, Gifford Pinchot, Aldo Leopold, Rosalie Edge, and Rachel Carson, has been characterized as the product of some left-wing cult intent on "changing our form of government." It is an administration in which liberals are not Americans, in which conservationists have been compared, without rebuke, to Nazis and Communists, and in which a kind of holy war

for energy development has replaced a reasoned and comprehensive approach to the use of public resources.

These are the themes and policies for which we seek change. This is not a conservative environmental record, but a radical and destructive one. It aims to weaken, undermine, and evade the environmental consensus established by both parties in a decades-long process of political struggle and accommodation.

It is this record and these policies which have been decisively rejected by the American people. Well before Secretary Watt's recent unfortunate remarks, he had already become the least popular and most controversial high official of this administration. In direct contrast to those who would have us believe that Secretary Watt's policies should be held distinct from his verbal histrionics, it should by now be clear that those policies, and the Administration's environmental record across the board, have become the subject of true national outrage.

The context of these confirmation hearings should remain crystal clear. Unlike the hearings for Secretary Watt himself, it is not the case that key Administration policies remain to be formulated, and it will not be enough for the Secretary designate to indicate a willingness to study the issues and take a broad variety of views into account. The Administration's public lands and environmental policies are well established, both in practice and in the mind of the public. As a direct result of these policies, the former Secretary has resigned in disgrace and amid almost universal sighs of relief. That is why it is absolutely essential that this Committee receive clear commitments from Judge Clark on specific changes in policy, as well as changes in top Department personnel that are consistent with a new, more balanced policy direction.

Under these circumstances, one might expect an admittedly canny President to use the transition at Interior in order to disavow these policies, to wipe the slate clean and start again on the environment. Unfortunately, every indication given us to date indicates that the opposite is true.

The President made it abundantly clear when he announced Judge Clark's nomination that he was proud of Mr. Watt's performance. This is of great concern to those who care about the future direction of the Department of the Interior. Judge Clark's close relationship with the President could be a great benefit, if it were accompanied by a Presidential commitment to set right the sorry record at Interior. Without such a commitment, we may be facing more of the same, only this time with a Presidential seal of approval.

Yet it is not merely the President's words of praise for a loyal if troublesome subordinate that have sounded the alarm among those who care about the environment. In fact, it seems that almost every top level appointee at the Department has, since Secretary Watt's resignation, felt called upon to assert the eternal nature of the changes which Watt inspired at Interior. Since the announcement of Judge Clark's nomination, the cries of "business as usual" have increased both in frequency and in volume. To cite but a few: BLM Director Burford was quoted in the Denver Post of Oct. 19: "James Watt's pro-development policies will dominate the Department of Interior long after he leaves"; Assistant Secretary Carruthers in the Oct. 11, Washington Post: "Secretary Watt was a great interpreter of Ronald Reagan...We'll just continue to carry on... the team is in place and continuing to operate"; Assistant Secretary for Fish and Wildlife Arnett, in the Los Angeles Times, Oct. 12: "I think Jim Watt did exactly what America and the President wanted done and I don't really see things changing... the team is still here"; and, in direct reference to Judge Clark, Assistant Secretary Carruthers had this to say in the Oct. 24 issue of Newsweek: "Those of us who make our daily bread by adhering to the faith feel we have a kindred soul on the way."

The direction in which Judge Clark intends to steer the Department, if he is confirmed as Secretary, is by far the most important question this panel can ask. To vote for confirmation without having first ascertained whether or not Judge Clark intends to turn things quickly around at DOI would be, in our opinion, an abdication of the Senate's responsibilities to the American public.

Our decision to call for the opposition of the Senate to the nomination of Judge Clark is based on three things: our judgement of his environmental record, drawn from an analysis of his past participation in environmental issues, his responses to our questions in several meetings in which he graciously allowed us to present our concerns to him, and the absence of any indication from the President or other significant figures in the Administration of any improvement in the Department's policies.

THE CLARK RECORD ON THE ENVIRONMENT

In our review of Judge Clark's environmental record, we found little evidence that he has any particular experience of, or expertise in, the broad range of environmental issues which will come before him for decision as Secretary of the Interior. However, in those areas of his past public service which involved matters of environmental concern, there is little to reassure anyone concerned with the future of our natural resource and public lands policies under his stewardship.

As part of our review, attorneys in the San Francisco office of the Sierra Club Legal Defense Fund prepared a detailed analysis of Judge Clark's role in the 17 major environmental cases in which he participated as an Associate Justice of the Supreme Court of California between 1973 and 1981. We have attached the results of our review to our testimony.

In each of the 17 cases we analyzed, Judge Clark sided with developmental interests and against environmental protection. In 15 of the cases, he dissented from the majority position. If his opinions on environmental matters had been agreed to by his brethren on the California Supreme Court, the state and its local communities would have been stripped of virtually all authority to regulate land use, and many of the statutes on which the tradition of California environmental law has been based would have been overturned.

Regardless of the kind of environmental issue, Judge Clark found a legal basis for voting against the environmental cause. Let me cite just a few examples:

In County of Los Angeles v. Berk, the court ruled that the public had a constitutional right of access to the state's coastal beaches. Judge Clark was a lone dissenter, arguing that privately held beach properties could be developed even if such development excluded the public from the beaches.

In No Oil Inc. v. City of Los Angeles, the court ruled that the

California Environmental Quality Act required careful environmental analysis prior to city approval of an oil and gas drilling project in a residential neighborhood. Again, Judge Clark dissented, arguing that the environmental impact of the project would be insubstantial.

In a landmark decision, Associated Home Builders vs. City of Livermore, the Supreme Court upheld the power of a local community to enact an initiative which banned issuance of building permits until educational, sewage and water facilities were completed. The court reasoned that the initiative was proper in that it ensured that the future residents of the City would receive the same level of public service and environmental protection as was afforded the current residents of the City. Judge Clark dissented on the grounds that the growth control initiative was unconstitutional.

In two decisions, the California Supreme Court upheld the power of California citizens to adopt zoning ordinances restricting development in order to preserve neighborhood character and environmental amenities by the enactment of initiatives. In both cases, Judge Clark dissented on the grounds that citizens' constitutional rights to adopt ordinances by initiative did not extend to regulations of land use.

In two other cases, the Court upheld the power of local governments to restrict local land use development in order to protect neighborhood character and open space amenities. In both cases, Judge Clark dissented from the majority opinion on the grounds that the rezoning ordinances were unconstitutional.

The one majority opinion which Judge Clark authored during his tenure on the California Supreme Court proved to be an environmental disaster. Judge Clark's ruling exempted from the governance of the California Coastal Initiative, developers who invested in coastal projects after they were put on notice that the coastal initiative, upon its enactment, would restrict their development. Justice Mosk, in his dissenting opinion, pointed to a well established rule in California that persons who are put on notice that a statute is about to be enacted may not take measures in a bad faith

effort to exempt themselves from the statute. The result of Justice Clark's decision was that many key coastal lands were exempted from the coastal initiative even though the owners of those lands had been put on notice that their lands would be subject to the initiative.

Among the environmentally related responsibilities Judge Clark has had during his tenure at the White House is membership on the Property Review Board. The Property Review Board has overall responsibility for the Reagan Administration's Asset Management program, with a charge to sell off large segments of the public lands in order to balance the federal budget.

This, the only activity with which Mr. Clark has been associated regarding the management of our public lands, has been widely viewed as anti-environmental and considered a threat to the interests of the states, the ranchers and virtually every other group who uses our public lands.

THE WATT/REAGAN RECORD AT THE INTERIOR DEPARTMENT

Because Judge Clark has almost no experience in the issues of public land management which will confront him as Interior Secretary, we believe the Senate should closely examine the policies and personnel which have been bequeathed to him by Secretary Watt. Even a strong leader, determined to turn the Department around, would find the going difficult if he had to begin by rowing upstream against a tide of Secretary Watt's decisions, defended by a loyal band of hand-picked Watt lieutenants. And, as we have indicated, there is little in the record to indicate that Clark is such a leader.

We would now like to turn the Committee's attention to the specific Interior Department policies of greatest concern to us:

1. OUR NATIONAL PARKS:

For 110 years the National Park System has grown with the nation. That growth came to an abrupt halt when the Reagan Administration took office. The centerpiece of the new administration's parks policy was to halt all new parkland acquisition and to ignore threats to the parks from air and water pollution, as well as from development immediately outside park boundaries. The story has been widely told that Secretary Watt, after ordering a full scale presentation at the Secretarial level by the National Park Service, refused to allow the purchase of a private inholding along the Appalachian Trail from a willing seller for $1.00.

The new parks policy was implemented by requesting drastic budget cuts for the Land and Water Conservation Fund. The fund, created by the Congress in 1965, is the primary source of money for acquiring or completing parks, wildlife refuges, and other recreation areas. It is also an important source of funds for buying and developing state and local parks. Year after year, the Administration requested appropriations for the fund at a fraction of the level considered necessary by former administrations. Year after year, Congress gave the Administration more

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than it desired. Year after year, the Administration refused to spend money, authorized and appropriated by Congress, to acquire lands from private holders who were often eager to sell. And year after year, the cost of filling out our National Parks System grows.

In exchange for a freeze on parkland acquisition, Watt increased the spending for park maintenance. The funds went towards refurbishing roads, bridges, buildings, sewers, and park facilities, rather than for protection of the irreplaceable natural resources which are the park system's reason for existence.

Instead of protecting the parks, Secretary Watt encouraged development schemes that threaten their very existence. For example, he attempted to reverse a decision by former Secretary Cecil Andrus barring strip mining within five miles of Yovimpa Point, the most spectacular vista in Bryce Canyon National Park in Utah. He has stymied efforts to protect the geysers of Yellowstone from potential destruction resulting from peripheral geothermal development. He has opened Lassen Volcanic National Park in California to snowmobile use and has allowed the continued use of snowmobiles in the pot holes region of Grand Teton National Park, despite a recommendation to the contrary by a blue ribbon panel.

Finally, in the first three years of the Reagan Administration, we have seen a deliberate assault on the professionalism of the National Park Service itself. As Secretary Watt took office, he ordered the replacement of the career professionals within the Service by political appointees. Of the 12 top positions under Director Russell Dickenson, 11 are now filled by Reagan loyalists whose knowledge of the problems facing our parks is questionable at best.

We urge this Committee and the Senate to question Judge Clark thoroughly as to his intentions with regard to America's National Parks. The Park Service must be allowed to return its career professionals to top positions, and the existing moratorium on new acquisitions should be ended. Finally, the FY'85 budget for the Land and Water Conservation Fund should be large enough to begin an orderly process of acquiring the backlog of

authorized parklands which still have not been purchased due to three years of delay and intransigence.

2. OUR NATIONAL WILDLIFE REFUGES

The purpose of the National Wildlife Refuge System is the conservation and far-sighted management of an important national resource. Yet, whenever wildlife conservation has come into conflict with potential mineral or energy development, this Administration has chosen to sacrifice the very resource which the system was built to protect.

Under Secretary Watt, the proposal has been made to open for the first time in 25 years, one million acres of refuge lands to potential oil and gas leasing. In Alaska, the push is on for greatly increased energy development, while at the same time the Alaska refuge management budget for vegetation inventories, habitat evaluation, instream flow studies, and environmental analysis has been drastically cut. Without these studies, we will never completely understand the carrying capacity of the Alaskan refuge system, nor will we be able to determine the threshold of compatibility between energy development and fish and wildlife protection.

In addition to opening the wildlife refuges to potentially damaging development, the Reagan Administration has also:

* Sought zero funding for the Land and Water Conservation Fund for wildlife refuge acquisition;

* Opposed acquisition of privately owned enclaves in refuges from New Jersey to California;

* Eliminated grants for the Land and Water Conservation Fund for State habitat acquisition;

* Recommended zero funding for wetland acquisition under the Wetlands Loan Act in FY 1983; and

* proposed the elimination of $3.9 million in federal funds for states programs to conserve endangered species' habitat.

At Watt's urging, the President rescinded a ten year old executive order issued by President Nixon that banned the use on public lands of compound 1080, a highly toxic poison used to kill coyotes and other predators. The Fish and Wildlife Service subsequently applied to the Environmental Protection Agency to approve 1080 for some uses, despite the fact that it has been shown to poison non-target species such as raccoons, badgers, and eagles as well as coyotes.

3. OUR WILDERNESS AREAS

When Secretary Watt took over the Interior Department, the Bureau of Land Management was well on its way toward fulfilling the wilderness review requirements of the Federal Land Planning Management Act (FLPMA). The BLM had completed an inventory of all of its lands and had identified 24 million acres as Wilderness Study Areas. In place was a policy providing protection for those areas while under study, and an established procedure and schedule for studying the areas that would provide Congress with well-documented recommendations for each of the areas within the 15 years allotted by law.

The Wilderness Review process has drastically changed under Secretary Watt. Under Watt's leadership, Interior has eliminated approximately 1.5 million acres of qualified lands from the wilderness review. The wilderness study schedule has been accelerated to a point that taxes the abilities of the Bureau to provide adequate documentation and limits public participation in the study process. The Interim Management Policy, designed to provide protection for study areas has been significantly weakened. Monitoring of violations and prosecution procedures are almost nonexistent. Recommendations for Wilderness Study Areas, have been biased against wilderness and have not contained adequate justification for these anti-wilderness conclusions.

The manner in which these changes took place can best be illustrated with the example of the 1.5 million acres that were dropped from wilderness study. These areas were dropped 20 days after Assistant Secretary of the Interior, Garrey Carruthers, testified before the Public Lands Subcommittee of the House Interior Committee regarding whether Interior had any intention of deleting land from the Wilderness Review. Secretary Carruthers denied that Interior had made any decision on the issue. The Chairman of the Subcommittee specifically requested that the Department notify the Congress of a pending decision and that the decision not be made while Congress was in recess. In spite of this request, during Christmas recess and without notifying the Congress, Secretary Watt dropped 800,000 acres from the Wilderness Review.

The House Interior Committee responded to this flagrant disregard for its request by passing a unanimous resolution on February 10, 1983, asking the Secretary to revoke his action and to refrain from deleting any further areas. Secretary Watt's response was to eliminate an additional 700,000 acres.

Obviously, this is not a desirable relationship to have between the Interior Department and the Congress, and doubtless it will change without the abrasive personality of Secretary Watt at Interior. But the more important, and unfortunately more questionable, change is the policy that resulted in this impasse. The 1.5 million acres are currently subject to a temporary restraining order preventing any change in management. A U.S. District Court decision is pending. Judge Clark should revoke the ill-considered decision that removed 1.5 million acres of qualified land from the BLM Wilderness Review.

The Wilderness Act of 1964 left the Wilderness System open to new mining claims for a twenty-year period - until the end of 1983. However, energy development - accomplished through leasing of development rights - is at the discretion of the Secretary of Interior. No Secretary had granted leases prior to this Administration.

This Administration made it clear within its first few months that the

Solicitor was to find ways to "open wilderness areas" and there were hundreds of lease applications before it for millions of acres in our nation's wilderness areas and in other lands proposed by the government for wilderness protection or under study for wilderness.

Controversy began almost immediately when in May, 1981 the House Interior Committee responded to proposals to begin seismic work in the Bob Marshall Wilderness, using a little known provision of the Federal Land Policy and Management Act of 1976 to withdraw the area from leasing. The Interior Department obeyed the order but said it was unconstitutional, setting up a lawsuit by the Mountain States and Pacific Legal Foundations often referred to as Watt v. Watt.

Throughout 1981, the Department continued processing leases in Wyoming, California, Arkansas, Vermont and elsewhere. In November, it was discovered that leases had already been granted in the Capitan Wilderness, New Mexico. This prompted a resolution by Interior Committee Chairman Udall to halt all leasing for 6 months, later extended until the end of the 97th Congress.

In February 1982, Secretary Watt appeared on "Meet the Press" and unveiled what he called "the Wilderness Protection Act" which was introduced by Rep. Manuel Lujan and others. On close examination, however, the provisions of the bill opened all wilderness areas to new development at the end of the century and precluded any additions to the wilderness system immediately and forever.

Conservationists condemned the bill as a wilderness destruction measure and hundreds testified against it in hearings throughout the west which led Lujan and Public Lands Subcommittee Chairman Seiberling to introduce a true Protection Bill in June. This bill which would ban leasing in wilderness and wilderness candidate areas passed the House August 12th by a vote of 340-58. A companion measure, introduced in the Senate by Senator Henry Jackson gained 54 sponsors. Nevertheless, when it appeared that Congress would recess without action on the Senate measure, the House Appropriations Committee led by Subcommittee Chairman Sidney Yates passed a amendment

prohibiting any expenditures by the Interior Department for any aspect of energy leasing in wilderness or wilderness candidate areas. This passed the Senate and took effect October 1, 1982.

When the Congress returned from the election-recess -- and following a trespass well drilled in the Salt Creek Wilderness, N.M. (apparently with Interior's acquiesence) the provision was included in the full Interior Appropriations Bill for 1983. Despite extensive Senate support, the Jackson bill failed to move in the Senate Energy Committee. However, proponents of leasing were unable to defeat the proposal in the Appropriations Committee. It became law in December, 1982 and has been retained and expanded in the FY 84 Appropriations bill.

Since that time the Sierra Club has re-examined leases already granted within wilderness candidate areas. In one area (S.C. v. Peterson, the Palisades) the courts have ruled that the leases illegally granted development rights without adequate environmental study. The Interior Department is unable to determine how many other areas have been leased in a similar manner, and the Department must determine how to respond to the court decision.

We urge the Committee to enquire closely into Judge Clark's intentions with regard to America's wilderness and wilderness study areas. We believe any attempt to continue the assaults on wilderness characteristic of the Watt era will be rejected by the American people, and ultimately, by the Congress as well.

4. PRIVATIZATION

"Privatization", or "Asset Management", are the Department's names for an exceedingly controversial Reagan Administration program which plans to raise some $17 billion by 1987 through the sale of millions of acres of our public lands.

The program is so hotly and universally opposed that the Interior Department has been forced to conduct its portion of the privatization

campaign under a veil of secrecy. In fact, the Bureau of Land Management has gone so far as to instruct its field offices not to respond to Sierra Club requests for information on the program, and it has notified us that the bill for answering a pending Freedom of Information Act request for details of BLM land disposal plans will be a whopping $6,000.

But stonewalling the public and the Congress cannot conceal the fact that the very premise of the Asset Management program is in flagrant violation of the BLM's Organic Act. The mandate of the Federal Land Policy and Management Act is clear: public lands are to be retained, except in those rare instances where the comprehensive land use planning process identifies parcels whose retention is not in the national interest.

Despite such clear pronouncements of Congressional intent, the Interior Department has actually established an acreage target for disposal in FY'84. That target is 200,000 acres. Although Congress has virtually eliminated funding for the Interior Department's land sales program, we still have serious concerns regarding the intentions of the Department's top land managers. Based on our review of land sale offerings noticed in the Federal Register and a sampling of BLM planning documents, we see an alarming trend towards increased land sales. A review of 5 drafts and 1 final Resource Management Plan reveals that the BLM has proposed to sell 195,879 acres out of 1,309,527 acres. This represents 15% of the lands in those planning units. If we extrapulate that ratio to the rest of the BLM public lands, we would be looking at the sale of some 49 million acres.

We urge the Committee to request assurances from Judge Clark that these bulk sales of public lands will be halted, and that the public and the Congress will be given access to detailed information on the land sales program, both past and future.

5. COAL LEASING

When the new Administration's team took over at Interior in 1981, they inherited a carefully crafted coal management program that called for the leasing of 1.5 billion tons of coal by 1987. The coal was to be leased as

needed to meet projected demand, and it was to be leased in an environmentally sensitive manner. The program wasn't perfect, but all of the major interests affected -- states, localities, the coal industry, citizens, and the environmental community -- supported it.

Currently the coal leasing program is under a Congressionally imposed moratorium, while an independent commission, mandated by Congress, investigates its economic and procedural problems. What happened?

One of Secretary Watt's earliest initiatives at Interior was to overturn the existing coal program regulations and radically redirect the leasing program. The new Watt program sets leasing levels based on industry's desire for reserves rather than actual production needs. It allows customized tracts for specific coal companies, minimizes public input, weakens environmental safeguards and sets tract values through new untried procedures. These radical new program rules are presently under legal challenge brought by many of the groups testifying before you today, including the Sierra Club.

The first result of this new policy was the Powder River Basin lease sale: a monumental giveaway according to the GAO. The second was the recent Fort Union sale, held in defiance of a House Interior Committee withdrawal order, in which the total federal bonus revenues failed to even cover the cost of administering the sale. The FY 1984 lease sales, if they are held as currently planned after the Congressional sales deferral lifts in May, will complete the implementation of this outrageous giveaway program.

The coal markets are depressed. Almost a third of the nation's coal work force is unemployed. Yet the Interior Department proposes to dump up to another 10.8 billion tons of coal in "competitive" sales in a matter of months. Another 7 billion tons may be leased on a noncompetitive basis.

The tracts now scheduled for leasing include a host of environmental tragedies in the making. In New Mexico, lands including as many as 15,000 archaeological sites from the Anasazi period, Navajo homesteads, and an

entire Wilderness Study Area will be leased. In southern Utah, tracts on the edge of Bryce Canyon, one of the gems of the National Park Service, are on the auction block. In Utah and Colorado, potential leases threaten municipal water supplies and water for farm use. In Montana, Wyoming and North Dakota, leases are located in critical wildlife habitat.

In the last two years, Secretary Watt has drastically weakened the Department's coal lease planning regulations, and substantially decreased the resources committed by Interior to coal resource evaluations and environmental analysis. The result of this deliberate policy is clearly shown by examples of sales prepared in ignorance of environmental impacts and without regard for fundamental resource conflicts.

We urge the Senate to seek assurances that the four major coal sales currently planned for the remainder of FY'84 will be reformulated to reflect the actual need for coal production, that the volume of coal offered for sale be drastically curtailed, and that no sale be held without careful, comprehensive land use and environmental planning.

6. THE OUTER CONTINENTAL SHELF

The OCS Lands Act of 1953 was most recently amended in 1978 to give coastal states and environmental concerns greater weight in the leasing process. In amending the Act, Congress specifically intended that the Secretary's previously unrestricted authority over outer continental shelf leasing be circumscribed by the legitimate concerns of coastal states.

Five years since the passage of the amendments, Congress and the Administration are locked in battle over a massive OCS leasing program developed despite the strong objections of affected coastal states. Offshore OCS leasing under this new expanded program has spawned an unprecedented amount of litigation: six of the ten sales scheduled over the last year have been challenged by coastal states and/or local governments on environmental grounds. By comparison, only five challenges were brought for environmental reasons to the twenty sales held during the time between

the passage of the 1978 amendments and the adoption of the new program in July, 1982.

One of the major problems with the new program is the huge size of the planning areas and the equally huge area-wide sales. The planning areas range up to 133 million acres in size. The program provides for the leasing of all, or a large portion, of these areas. The result is that tens of millions of acres will be offered for lease in each sale in contrast to the one or two million acres offered in prior years.

The efficiency of the Interior Department's environmental review process is seriously diluted by having such large areas, comprising virtually the entire outer continental shelf, on the schedule. In 1984, for example, the Administration will offer nearly 300 million acres for lease off Alaska, a hundred times the average offered in 1983. Yet the staffing and budget of the Alaska office of the Minerals Management Service has not been augmented to accommodate this vast increase. The clear net effect is a reduction in the quality and detail of the environmental planning and review now being undertaken by the Department.

The record offers little justification for the size of the planned sales. In the first area-wide offering, Sale 76 in the Mid-Atlantic (April 1983), 4,050 tracts were offered. Incredibly, only 40 tracts received bids -- less than one percent. In the next area-wide sale in the Central Gulf -- an area of greater industry interest -- only 656 tracts were bid on, out of the 7,250 tracts offered. In the third area-wide sale, Sale 78 in the South Atlantic, a mere 11 tracts of the 3,582 tracts offered recieved bids. In total, only approximately 5% of the tracts offered in these three sales were bid on.

In addition to its uneconomic size and its planning deficiencies, the new OCS program poses a significant threat to some of this nation's most valuable coastal marine areas. In the absence of Congressional intervention, the Reagan Administration would open up virtually every area of the Outer Continental Shelf (OCS) to oil drilling with little or no regard for potential resource conflicts. Frequent leasing is scheduled in

areas such as Georges Bank off New England and the St. George Basin off Alaska, which contains some of the world's greatest commercial fisheries -- worth hundreds of millions of dollars annually.

We believe this Committee should urge Judge Clark to reevaluate the entire OCS program, and to reinstate a systematic approach to offshore leasing, based on offerings of manageable size and careful environmental preparation. We also believe Congress should retain restrictions on leasing in sensitive marine areas and critical fisheries until it deems such leasing to be necessary to the national interest.

7. ONSHORE OIL AND GAS LEASING

The recent scandal in the noncompetitive oil and gas leasing system in Wyoming has forced the Interior Department to suspend the lottery for an indefinite period of time. As far as anyone can tell, that scandal is only the tip of the iceberg. Because of personnel shortages, improper procedures, and shoddy data gathering, the government may be losing millions of dollars a year by giving away oil and gas leases of obvious commercial value.

BLM Director Burford has set a period of six weeks to make technical corrections he deems necessary to restart the lottery program. In our view, this is a clear case of applying a band-aid to a compound fracture. We urge the Committee to demand a careful review of the procedures and regulations upon which the designation of noncompetitive oil and gas leases are based, and to urge Judge Clark to submit legislation for the reform of the current leasing system.

8. THE OFFICE OF SURFACE MINING

The enforcement of the nation's surface mining standards is one of the most important environmental duties of the Secretary of the Interior. Significantly, the Reagan Administration has made the Office of Surface

Mining one of the top targets in its drive to unburden the nation's industry of allegedly needless health and safety regulations. Among the actions taken to date:

* Suspension of all previous enforcement procedures; a directive that enforcement inspectors would need approval from their superiors before issuing violations;

* Removal of many critical environmental considerations in program regulations;

* Reorganization of OSM in the Fall of 1981. Five regional offices were closed and replaced with two "technical centers"; the 18 field offices were reduced to six. The district offices were replaced by six state offices with decreased enforcement authority.

The mismanagement of the Office of Surface Mining has been so severe that nearly fifty percent of its staff, including 150 inspectors, have left. Of the ten state programs that Watt has approved, five have been challenged in the courts by citizens. In contrast, between 1977 and 1981, only one state plan out of 15 was challenged. In addition, the agency has obstructed a court order sought by citizens which required OSM to clean up thousands of acres of abandoned lands and collect over 40 million dollars in penalties.

We believe the Congress should insist on the proper and vigorous enforcement of the Surface Mining Act. Judge Clark should be urged to withdraw the new program regulations and to restore the environmental considerations which are essential to a successful regulatory effort. Finally, Judge Clark should be counseled to request a budget for surface mining enforcement which will allow adequate inspection and enforcement and ensure the correct application of the law.

CONCLUSION

We have attempted to detail for the Committee our understanding of Judge Clark's environmental record, our concerns with the apparent philosophy with

which the Reagan Administration approaches the land management responsibilities of the Department of the Interior, and our hopes for the future. We believe the specific commitments we have called for today are critically necessary in order to correct the excesses of the Watt era, and that, if taken, they would go far towards resolving the conflicts which plague the Department today. Unless Judge Clark is willing to assure you, on his own behalf and on behalf of the President, that he fully intends to make such changes, we must regretfully urge you to oppose his confirmation as Secretary of the Interior.

Senator HECHT. Thank you.
Mr. POMERANCE.

STATEMENT OF RAFE POMERANCE, PRESIDENT, FRIENDS OF THE EARTH

Mr. POMERANCE. Thank you, Senator. It's a pleasure to be here today.

I would just like, before I begin with my statement, which was written prior to the hearing's beginning, we had a comment based on yesterday's testimony. I have a suggestion to make.

After listening to the radio, reading the newspapers, and talking with some people who sat through the hearings yesterday, it appears that Mr. Clark was unable really to give an answer about his opinion on any significant conservation issue facing the Nation. Yet he's supposed to be qualified because he was a judge, a rancher, ran Governor Reagan's administration in California, and yet is unable to comment on any single policy.

Now, at the moment it appears that the Senate is ready to proceed to confirm him without knowing a thing about his policies on any major issue.

Now, normally who wants to come up and oppose nominees. It's not much fun. But we did oppose Secretary Watt; we did oppose Ann Gorsuch. They were both—have been driven from office. They both were sorely lacking in capability to run the most important environmental agency within this country, if not the world, and in some sense the Senate failed to learn much about them before they were approved.

I think that in light of those two appointments, the American people deserve to know something about Judge Clark. And if you want to—if you don't want to vote against him, then perhaps you can give him another month to learn something about the issues, and be willing to comment on them before he comes up for confirmation.

Shouldn't we know something about the simplest issues and his feelings on those?

I say that having listened yesterday. I think it's appropriate to the Senate—that's what the confirmation process is all about, to learn something of his views. And I think although the Senate did not turn down Secretary Watt, they certainly learned something about him because he did at least discuss some policy issues in his

confirmation hearings. I don't think Mr. Clark has even gotten that far.

Let me just proceed then to summarize a few points in my testimony. We're about Friends of the Earth. We're a national environmental organization, 30,000 members around the country. We do work, and have worked for the 14 years of our existence on major issues of concern to the Department of the Interior. We see that job as perhaps the most important conservation job in this country, perhaps in the world, because we can be a leader.

Second, the Secretary of the Interior is responsible for administering things of great pride to this country, the national parks, the wildlife refuges, wild and scenic rivers, our wilderness areas. It's a job to administer some of the most beautiful and scenic lands in the world. Whoever takes that job, in our opinion, should have a record of treasuring those resources, and we have not been able to find that.

There are, however, plenty of other people who could have been appointed within the Republican Party who had such qualifications.

As I mentioned, I think that we're in a context here where as Mike mentioned before we have 2½ years or close to 3 years of a record where we had two appointees who didn't do the job. We deserve to know a great deal more than we know so far.

I think the list of the legacy—I'd like to bring up another issue here. Many of Secretary Watt's most radical proposals, like opening up the wilderness areas for oil and gas drilling, the wildlife refuges, stifling the addition of new wilderness areas, new parks, many of those initiatives are up in the air. The Senate has voted to stall some of them. The House has. But we really don't know where they're going to come out because it's been done in the appropriations process.

And what I'd like to know is are those policies going to continue? Those are President Reagan's policies. Has he withdrawn them, or is he simply saying that the Senate's held them up, we're not going to continue them anymore?

Finally a word about what committments we think the—Mr. Clark should make before he's confirmed. There are three fairly obvious things. One is that some committment on the major policy issues, some committment to change should be forthcoming.

Second, the budget process which has been used to an extent to change priorities, change programs, should be reversed. The conservation programs, the environmental programs that have been either zero budgeted, or severely reduced, should be restored.

For example, is taking all the money out of environmental planning and offshore drilling. It should put the money back in. Take less money—take some of that money that goes into administering the sales to restore some balance there.

Third is—my final point, that we need a new team at the Department of Interior. The team that's there has been very loyal to Secretary Watt. They are 100 percent behind him. If there's to be any indication of change the team needs the change.

[The prepared statement of Mr. Pomerance follows:]

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STATEMENT OF RAFE POMERANCE, PRESIDENT
FRIENDS OF THE EARTH

AT THE CONFIRMATION HEARINGS OF WILLIAM P. CLARK
TO BECOME SECRETARY OF THE INTERIOR

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SENATOR JAMES MC CLURE, CHAIRMAN

NOVEMBER 2, 1983

Good morning, Mr. Chairman, I am Rafe Pomerance, President of Friends of the Earth, a national conservation organization with 30,000 members. We endeavor to protect the earth's wild places, to preserve and restore a healthy natural environment, and to promote the wise use of our natural resources.

It is with regret that we appear before you today to speak in opposition to the nomination of William Clark to become Secretary of Interior. The Secretary of Interior holds the most important conservation job in the nation, if not the world, and it is essential that the person who occupies that position be an individual with an excellent conservation background. Judge Clark does not appear to be that person.

The Secretary of Interior is responsible for the some of the most beautiful lands in the world. It is a great honor to be charged with protecting the resources held in trust for and treasured by the American people. Our National Parks, our wilderness system, our wild and scenic rivers are the envy of the world and have taught the American people a love of their land.

We had hoped that President Reagan would be inspired by these sentiments to appoint a great conservationist. We deeply regret that this is not the case.

Several of the men closest to Ronald Reagan have gone out of their way to affirm to the members of the press that the policies of James Watt are the policies of Ronald Reagan and that these policies will be continued under William Clark.

It is our belief that in two previous confirmations, those of James Watt and Anne Gorsuch Burford, the Senate failed in its responsibility to fully assess the candidates' policy perspectives and qualifications for the job. Now, both of the Nation's top environmental officials, presidential appointees, have been driven from high office in disgrace. The American people cannot afford to have the Senate abdicate its responsibility one more time. Too much is at stake.

Before the Senate seriously considers giving its consent to this nomination, it should extract genuine policy commitments from the nominee to reverse the giveaway programs underway at the Department, to replace Watt's top lieutenants with a new cadre of professional staff, and to dedicate this Administration to the resumption of parks and wilderness protection. Absent

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these pledges, every Senator should exercise the rarely used but crucial Constitutional prerogative to vote no on the President's nomination.

These have not been normal times for those concerned about the environment. With the election of Ronald Reagan came the ascension of James Watt, Anne Gorsuch and a new generation of aggresively anti-environmental government officials. In the ensuing time, environmental protection has been under an unprecedented, multi-faceted attack.

Attempts to severely weaken environmental protection through the budget process, to reorient the regulatory process toward polluters and give away many hundreds of millions of dollars worth of publicly-owned natural resources at a fraction of their true value have, unfortunately, been very successful.

As if that weren't enough, these same officials have sought to weaken existing laws and when unsuccessful, many in this "law and order" administration have refused to enforce the very laws they have sworn to uphold.

For almost three years, we have tried to resist this undeclared war on our environment. It has been a long, difficult period, with new attacks by this Administration occurring at an alarming rate. Their successes have been numerous, but many issues remain up in the air.

There is, however, one issue that <u>has</u> been decided: which side the American people are on. The message we carry and the concerns we raise are overwhelmingly supported. If you were to put the environmental policies of Ronald Reagan, James Watt, and Anne Gorsuch to a vote, polls indicate that they would be overwhelmingly rejected.

As the Senate convenes to exercise its Constitutional function of advice and consent to the President's nomination for Cabinet positions, it would be a good time to reflect upon the record and policies left by Mr. Clark's predecessor.

Many defenders of James Watt continue to maintain that the only reason Watt had to go was his chronic tendency toward the impolitic remark. It is unlikely that they really believe this, but even if they do, none of the rest of us should delude ourselves. It is not simply the personality, but the policies of James Watt which have been substantively rejected by Americans.

A few weeks ago, the United States Senate voted to cut off leasing in Wilderness and Wilderness Study Areas, to suspend the coal leasing program, to emasculate the land sales program, to curtail the leasing of subeconomic resources, and provide protective areas where the Secretary of Interior would not be allowed to issue offshore oil leases.

Every one of these items represents a repudiation of a major Administration policy agenda, and illustrates as nothing else can that even more than his insulting remarks, the American people were fed up with James Watt's concept of a rational natural resource policy.

Alexander Hamilton once wrote of the confirmation process, of the role of "advise and consent" that the Senate would play. He thought that a President who "values loyalty above competence", as William Clark once said of Ronald Reagan, should not be given an unfettered hand to appoint the nation's Cabinet officers.

In writing about the confirmation process, Hamilton spoke not only of the

things which should disqualify a potential candidate, but of the infrequency that the Senate would exercise its "no consent" authority:

"...it is also not very probable that his nomination would often be overruled...where there were not special and strong reasons for the refusal."

It is right that the Senators should ask what these "special and strong" circumstances would be in the case of William Clark to succeed Interior Secretary James Watt. Those circumstances are, simply, the events of the last 2 1/2 years and the lack of qualifications and experience Mr. Clark would bring to the job.

It has been a time of unprecedented controversy, a time of aggressive mismanagement of our natural resources. With Ronald Reagan's blessing, the Secretary of Interior has reversed steady progress in the protection of parks and wild rivers. He gutted stripmining controls and the protection of endangered species.

He consistently attempted to invade the sanctity of the nation's wilderness preservation and wildlife refuge systems. He was in the process of giving away America's natural resources--coal, oil, and timber--as if they were surplus cheese.

Friends of the Earth's Chairman of the Board, David Brower, last month honored for 50 years in the conservation movement, recently remarked that,

"President Reagan and Secretary Watt have diminished our own environmental security, and that of the earth as a whole, in ways that I have not seen the equal of in my fifty years in the conservation business".

Perhaps in another time, following another Secretary, when the environmental agencies of governement had not been polarized and paralyzed, things would be different.

Perhaps it would not be of as great import that a man of no apparent relevant credentials would be selected to fill out the last 14 months of a term. But today it is of great importance.

Exactly what environmental experience is supposed to commend Mr. Clark today?

That he has dealt with environmental matters as a justice of the California Supreme Court?

By all available evidence, Judge Clark was the most consistently, dogmatically anti-environment Justice of the Court of the last twenty years.

That he was in charge of handling acid rain and the Law of the Sea conference at the State Department?

Anyone else would be ashamed to state these as credentials; this Administration's handling of both issues has been an international embarrassment.

We've had almost three years of management-by-ideology. We don't need another day. There are plenty of well-qualified resource professionals in the Republican party, people who could occupy the office with distinction.

We believe that the Senate should not confirm Mr. Clark without ironclad commitments in several policy areas. The American people deserve better than Watt and Gorsuch, individuals the Senate allowed through without obtaining

such commitments.

These should include:

* Personnel changes similar to those instituted at the Environmental Protection Agency after Mrs. Gorsuch/Burford's departure;

* An overhaul of the coal leasing and offshore leasing programs which would result in drastically improved environmental protection and fair market value returns;

* A redirection of Interior's budget from the its current imbalance toward resource extraction and away from environmental protection;

* A restoration of law and order to the nation's coalfields, where the Interior Department is currently refusing to enforce the surface mining laws and $44 million in delinquent fines owed to taxpayers have gone uncollected;

* A renewed commitment to parks and wilderness, which were subjected to the repeated abuse of James Watt: a promise to buy what Congress instructs and to leave wilderness and potential wilderness areas alone, to await further instruction by Congress.

Only then would the Senate have a candidate worthy of its approval, an individual who could obtain the endorsement of national conservation groups and millions of citizens concerned with the wise use of our lands, a Secretary of Interior America could be proud of.

Thank you.

Senator HECHT. Thank you very much.

Mr. Turnage.

Mr. TURNAGE. Right here.

Senator HECHT. OK. They have your name tag in the wrong order, but that's fine.

Mr. TURNAGE. That's all right.

STATEMENT OF WILLIAM TURNAGE, EXECUTIVE DIRECTOR, THE WILDERNESS SOCIETY

Mr. TURNAGE. I'm William Turnage, executive director of the Wilderness Society.

The Wilderness Society is the only national conservation organization devoted solely to the protection and appropriate management of all our country's public lands.

For nearly 50 years we have worked closely with every administration, Republican and Democratic, until, of course, the present administration, which has chosen not to work with, or even talk with us.

But this is not surprising for the Reagan administration has been, without doubt, the most egregious in this century in its negative treatment of America's lands, air, waters, and wildlife. It would be difficult for me to overstate the sweeping and fundamental antienvironmentalism of the policies, budgets, and personnel of Mr. James Watt, and President Ronald Reagan.

Our Nation possesses the finest system of national parks, wildernesses, wildlife refuges, and public lands of any Nation in human history. Few aspects of America occasion more pride among our fellow citizens, nor more admiration among the citizens of other countries. The national park idea, the wilderness idea, this sublime yet majestic conservation system is, in my opinion, the most unique and substantive contribution our Nation has made to western civilization.

Europe produced the Magna Carta and the mother of Parliaments, Mont-Saint-Michel and Chartres. But they do not have Yosemite and Yellowstone, the misty fiords of Alaska, and the Grand Canyon of the Colorado.

Our Nation's youth and vigor is balanced by the stability and grandeur that nature has given us, and which we at our very best as a people have preserved and protected. Why in the 1980's, after more than 200 years, has our Government turned upon the land? Why do we as citizens find ourselves engaged in a bitter struggle to protect our environment, our parks, and our wildlife from their greatest enemy, our own Government?

Why did President Reagan appoint, approve, admire, encourage, and sucker a Secretary of the Interior like James Watt? And why now has he appointed a man of no conservation experience, or knowledge, or passion, to be the chief conservation officer of these United States?

It serves nothing to trade the worst Secretary of the Interior in history for one who is arguably the least qualified.

The Wilderness Society opposes the confirmation of what Mr. William Clark and a continuation of the Watt/Reagan environmen-

tal policies because our parks and wilderness deserve and demand better.

If these are truly our crown jewels can we not among our 230 million fellow Americans find even one who knows and cares with love and wisdom about their protection and preservation for all Americans yet to come.

There are many distinguished Republican conservationists. Men and women with expertise, experience, and a true committment to an American land ethic. Why not a Secretary of the Interior of real distinction and quality?

Mr. Clark appears to be an amiable man. He and I have had a pleasant chat on the telephone. I believe that unlike Mr. Watt he will be courteous and professional in his dealings with conservationists, and indeed, with all Americans. But despite the naive euphoria of a few misguided environmentalists, this is no cause for celebration. Courtesy is the basic demeanor one expects of a public official, and it means very little in terms of new policies and new personnel at the Interior Department.

With all due respect Mr. Clark has no discernable expertise, experience, or committment to conservation and the public lands.

To the extent he has revealed his environmental views in his judicial opinions he has demonstrated in an overwhelming and unrelieved bias in favor of development over the interests of conservation.

When Secretary Watt met his fate the President stood at a fundamental crossroads in his environmental policies. One road led further down the trail James Watt blazed, toward development as the dominant use of the Nation's public lands, for divesture of the Federal estate by selling the lands, or giving away their resources toward systematically undermining Federal environmental protection statutes at every opportunity. The other road led back toward the mainstream of American conservation thought toward bipartisan consensus for taking the steps necessary to husband our Nation's resources and protect its land, air, and water, toward a true balance between development and preservation.

The New York Times in its lead editorial of October 15 analyzed this appointment in a most succinct manner, and I quote, "by nominating a neophyte Mr. Reagan scores his own comparative values, politics 10, environment 0."

The Wilderness Society asks that the Senate decline to consent to the nomination of Mr. Clark, and advise the President that new environmental policies are urgently needed to protect that which is greatest in soul, and spirit, and history of America. We ask that you advise the President that America needs a chief conservation officer who is among America's chief conservationists.

Thank you.

[The prepared statement of Mr. Turnage follows:]

THE WILDERNESS SOCIETY

FOUNDED IN 1935

TESTIMONY OF WILLIAM TURNAGE, EXECUTIVE DIRECTOR, THE WILDERNESS SOCIETY, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, AT THE CONFIRMATION HEARINGS OF WILLIAM CLARK TO BE SECRETARY OF THE INTERIOR, NOVEMBER 2, 1983

Mr. Chairman, The Wilderness Society is the only national conservation organization devoted solely to the protection and appropriate management of all our country's public lands. For nearly 50 years we have worked closely with every administration, Republican and Democratic -- until, of course, the present Administration, which has chosen not to work with or even talk with us. But this is not surprising, for the Reagan Administration has been, without doubt, the most egregious in this century in its negative treatment of America's lands, air, waters and wildlife. It would be difficult for me to overstate the sweeping and fundamental anti-environmentalism of the policies, budgets and personnel of Mr. James Watt and President Ronald Reagan.

Our nation possesses the finest system of national parks, wilderness, wildlife refuges and public lands of any nation in human history. Few aspects of America occasion more pride among our fellow citizens, nor more admiration among the citizens of other countries. The national park idea, the wilderness idea, this sublime yet majestic conservation system, is in my opinion, the most unique and substantive contribution our nation has made to Western civilization. Europe may have tens of centuries of history -- an old and rich tradition, a culture which has produced the Magna Carta and the Mother of

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Parliaments, Mont-Saint-Michel and Chartres. But they do not have Yosemite and Yellowstone, the Misty Fjords of Alaska and the Grand Canyon of the Colorado. Our nation's youth and vigor is balanced by the stability and grandeur that nature has given us -- and which we, at our best as a people, have preserved and protected.

Why, in the 1980's, after more than 200 years, has our government turned upon the land?! Why do we, as citizens, find ourselves engaged in a bitter struggle to protect our environment -- our parks and our wildlife -- from its greatest enemy, our own government?! Why did President Reagan appoint, approve, admire, encourage and succor a Secretary of Interior like James Watt?! And why, now, has he appointed a man of no conservation experience or knowledge or passion to be the chief conservation officer of these United States? It serves nothing to trade the worst Secretary of the Interior in history for one who is arguably the least qualified!

The Wilderness Society opposes the confirmation of Mr. William Clark -- and the continuation of the Watt/Reagan environmental policies -- because our great parks and wilderness deserve and demand better! If these are truly our crown jewels can we not, among our 230 million fellow-Americans, find even one who knows and cares with love and passion about their protection and preservation for all Americans yet to come? There are many distinguished Republican conservationists - men and women with expertise, experience and a true commitment to an American Land Ethic.

Mr. Clark appears to be an amiable man. He and I have had a pleasant chat on the telephone. We believe that, unlike Mr. Watt, he will be courteous and professional in his dealings with conservationists -- and, indeed, with all Americans. But despite the naive euphoria of a few misguided

environmentalists, this is no cause for celebration. Courtesy is the basic demeanor one expects of a public official. And it means very little in terms of new policies and new personnel at the Interior Department. With all due respect, Mr. Clark has no discernable expertise, experience or commitment to conservation and the public lands. To the extent he has revealed his environmental views in his judicial opinions, he has demonstrated an overwhelming and unrelieved bias in favor of development over the interests of conservation. A recent analysis of his decisions and dissents on environmental cases while serving on the California Supreme Court placed him so far to the development extreme that he stood virtually alone among the Justices in the strength and consistency of his anti-environmental views.

When Secretary Watt met his fate, the President stood at a fundamental crossroads in his environmental policies. One road led farther down the trail James Watt blazed: toward development as the dominant use of the nation's public lands, toward divestiture of the federal estate by selling the lands or giving away their resources, toward systematically undermining federal environmental protection statutes at every opportunity. The other road led back toward the mainstream of American conservation thought, toward bipartisan consensus for taking the steps necessary to husband our nation's resources and protect its land, air and water -- toward a true balance between development and preservation.

What we awaited from the President in his appointment of Secretary Watt's successor was a signal that from now on we would be back on the road of bipartisan consensus to protect and preserve. We have waited in vain. Never, to this day, has President Reagan disavowed a single one of James Watt's destructive policies. On 14th of October, Edwin Meese, counselor to the President, said, and I quote, "the policies of this Administration, inaugurated

by Jim Watt and approved by Ronald Reagan, will be the policies that will continue under the stewardship of Bill Clark." In other words, James Watt equals Ronald Reagan equals William Clark. Mr. Clark may assure you that he will "review" the policies of Mr. Watt. But there is not yet a scintilla of hope that this appointment means that there will be meaningful change in policy at the Interior Department. And these policies have been a disaster for the public lands, our nation and our future.

The New York Times, in its lead editorial of 15th October evaluated this appointment in a most succinct manner, and I quote:

> "...by nominating a neophyte, Mr. Reagan scores his own comparative values: politics 10, environment 0."

The Wilderness Society asks that the Senate decline to consent to the nomination of Mr. Clark and advise the President that new environmental policies are urgently needed to protect that which is greatest in the soul and spirit and history of America. We ask that you advise the President that America needs a chief conservation officer who is among America's chief conservationists.

Senator HECHT. Thank you very much.

Did Mr. Smith—are you Mr. Smith? Just come out of the business world when I say I'll start a meeting on time. See, I still do it.

Mr. SMITH. My apologies, Senator.

Senator HECHT. That's fine. You're in time for your testimony. Please proceed.

STATEMENT OF ALLEN E. SMITH, PRESIDENT, DEFENDERS OF WILDLIFE

Mr. SMITH. Mr. Chairman, we appreciate this opportunity to speak before your committee today on this very important issue.

I am Allen E. Smith, president of the Defenders of Wildlife, a national nonprofit membership organization with over 100,000 supporters concerned with the preservation of our native wildlife and its habitat.

I might add that since 1947 when the organization began we had had a direct involvement with many of the programs of the Department of the Interior, which continues to this day.

Notwithstanding a membership in Defenders of Wildlife, which is evenly balanced between Republicans and Democrats, no single issue has united our membership more than the appointment of Mr. James G. Watt as Secretary of the Interior. Our members and staff have been appalled at the Reagan administration through Secretary Watt could continue to express such a consistent and callous disregard for wildlife values. This administration has acceler-

ated the assault on our national wildlife refuges, parks, and wilderness areas. It has pressured the Environmental Protection Agency into the first reregistration decision ever just 2 day ago of a banned toxic poison, compound 1080. It has demoralized Federal wildlife managers in the Interior Department, and has promoted many unwise policy changes in the management of our natural resources.

To list a few, zero funding for the land and water conservation fund; zero funding for section 6, Endangered Species Act; funds for State listing and recovery; oil and gas leasing on the national wildlife refuge system; expanded economic uses of the refuge system in the face of 7,000 documented threats; stalled Endangered Species Act listings with a backlog in the thousands of species to be considered; stalled Endangered Species Act recovery plans; transfer of endangered species recovery efforts to States, such as with Minnesota wolves; and the fact that the compatibility standard of the National Wildlife Refuge Administration Act is being treated as something to stretch rather than observe.

We believe that Congress should take very strong issue over the present policies of the Department of the Interior and correct them. We believe that the Department—the depature of Secretary Watt is an appropriate point for such a review, particularly since we have heard this administration also say that it intends to continue these policies.

Before your committee now is President Reagan's new appointee, Mr. William P. Clark. We too have researched Mr. Clark's record, and are generally concerned and mystified as to why the President would select a man so obviously inexperienced with respect to the stewardship of our Nation's wildlife and natural resources. His credentials appear to be chiefly loyalty to the President, and ability to conciliate opposing parties.

While these are admirable traits, we're deeply concerned that a position as critical as Interior Secretary really should be filled by an individual who has demonstrated expertise in natural resource management, understands the complex policy issues in the Department of the Interior, and will exercise independent judgment with respect to the balancing of competing interests.

We would support an individual who is clearly capable of practicing stewardship of our lands, and who expressed some interest and willingness to challenge and/or review the policies of the Reagan administration when it is necessary to protect our natural resources.

While we hold no ill will toward Mr. Clark, we do find that we cannot support his confirmation as Secretary of the Interior because the position demands a standard of direct experience which he, unfortunately, does not possess.

Defenders of Wildlife strongly urges this committee to review this candidate's credentials, motivations, and experience very closely. A rubberstamping of this nomination will continue business as usual. The American people have a right to expect more.

Mr. Chairman, we appreciate the opportunity to express our views on the nomination of Mr. Clark, and hope that you will consider them as you question this nominee in these hearings.

Thank you.

[The prepared statement of Mr. Smith follows:]

Defenders
OF WILDLIFE

Statement of

Allen E. Smith, President
Defenders of Wildlife

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on

The Nomination of
Mr. William P. Clark
to Become Secretary
of the Interior

before

Committee on Energy and Natural Resources

U.S. Senate

November 2, 1983

1244 NINETEENTH STREET, NW • WASHINGTON, DC 20036 • (202) 659-9510

Mr. Chairman, I am Allen E. Smith, President of Defenders of Wildlife, a national non-profit membership organization with over 100,000 supporters concerned with the preservation of our native wildlife and its habitat.

No single issue has united our membership more than the appointment of Mr. James G. Watt to be Secretary of the Interior. Our members and staff have been appalled that the Reagan Administration, through Secretary Watt, could continue to express such consistent and callous disregard for wildlife values. This Administration has accelerated the assault on our national wildlife refuges, parks, and wilderness areas; it has pressured EPA into the first reregistration decision ever just two days ago of a banned toxic poison - Compound 1080; it has demoralized federal wildlife managers in the Interior Department; and it has promoted many unwise policy changes in the management of our natural resources.

We believe that Congress should take very strong issue with the present policies of the Department of Interior and correct them. We believe that the departure of Secretary Watt is an appropriate point for such a review, particularly since we have heard this Administration also say that it intends to continue these policies.

Before your committee now is President Reagan's new appointee, Mr. William P. Clark. We have researched Mr. Clark's record and are genuinely concerned and mystified as to why the President would select a man so obviously inexperienced with respect to the stewardship of our nation's wildlife and natural resources. His credentials appear to be chiefly loyalty to the President and an ability to conciliate opposing parties. While these are admirable traits, we are deeply concerned that a position as critical as Interior Secretary really should be filled by an individual who has demonstrated expertise in natural resource management, understands the complex issues in the Interior Department, and who will exercise independent judgement with respect to the balancing of competing interests.

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Defenders of Wildlife strongly urges the committee to review this candidate's credentials, motivations, and experience very closely. A rubber-stamping of this nomination will continue business as usual. The American people have a right to expect more.

Mr. Chairman, we appreciate the opportunity to express our views on the nomination of Mr. William Clark, and hope that you will consider them as you question the nominee in the hearings.

Senator HECHT. Thank you very much.
Mr. Callison.

STATEMENT OF CHARLES H. CALLISON, DIRECTOR, PUBLIC LANDS INSTITUTE, DIVISION OF THE NATURAL RESOURCES DEFENSE COUNCIL

Mr. CALLISON. Mr. Chairman, my name is Charles Callison. I'm the Director of the Public Lands Institute, which is a division of the Natural Resources Defense Council.

Natural Resources Defense Council, commonly known as NRDC, is an environmental law organization staffed by lawyers, scientists, and resource specialists.

The Department of the Interior is the custodian and manager on behalf of the American people of some 500 million acres of public land. These include our great national park system, our great national wildlife refuge system, and some 325 million acres under the Bureau of Land Management.

The Department administers the public's mineral resources in an even larger domain. It handles mineral leasing in the 190 million acres of the national forests, even though these special lands are under the Department of Agriculture.

Moreover, Congress has given Interior the responsibility of conserving, managing, and selling the minerals that underly a billion acres of the Outer Continental Shelf.

Reaching beyond the national wildlife refuges, Interior's fish and wildlife service manages and protects our migratory birds, an international resource, administers the Species Act, and together with the National Park Service corroborates with and assists the States in their own wildlife, park, and recreational programs.

Then there are the Bureau of Indian Affairs, the Bureau of Reclamation, Geological Survey, and other agencies with far reaching programs the Department's work touches, or potentially effects the lives of every citizen for good or bad.

The material prosperity and quality of life of the present and future generations, and indeed, Mr. Chairman, the very security of our Nation, depend in large measure on how well the Department of the Interior husbands, develops, and manages the lands and resources under its jurisdictions.

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Only days ago Congress passed an $8 billion appropriation bill for the operations of the department in fiscal 1984.

Now, Mr. Chairman, I know this kind of summary or description of the program, and structure of the Deparment of the Interior is unnecesary in testimony before this particular committee. But the point is these lands, resources, and programs are far too important for Interior to be treated as a throw away Department by the President of the United States. This is no place for just anybody to serve as Secretary, no matter how admirational his philosophy, or how inexperienced and unqualified.

Through a century or more Congress has painstakingly constructed a complex body of laws to direct and guide the Secretary of the Interior in the performance of his duties. Mr. Clark has had no part in the writing of those laws, as have present and past Members of Congress, some of whom were talked about, and even sounded out for the post before the President selected his good personal friend.

He has some judicial experience, but only in California courts where he dealt with State law, not with Federal law governing Federal lands and resources. He has had no administrative experience to prepare him for the Interior job. On whom will he depend for legal guidance and program execution? The Jim Watt team?

It's been said in Mr. Clark's defense that he is a fourth generation rancher. If this is a qualification then there are thousands of ranchers and farmers equally qualified.

Mr. Chairman, I recognize that tradition concerning Cabinet appointments, and the reality of the situation in the Senate. Mr. Clark is almost certain to be confirmed. However, we must object to the appointment and confirmation of a person so unqualified.

I thank you.

[The prepared statement of Mr. Callison follows:]

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Statement by Charles H. Callison, Director, The Public Lands Institute (A Division of the Natural Resources Defense Council) concerning the confirmation of William P. Clark

To the Senate Committee on Energy and Natural Resources:

November 2, 1983

The Department of the Interior is the custodian and manager, in behalf of the American people, of some 500 million acres of public lands. These include our great National Park System, our great National Wildlife Refuge system, and some 325 million acres under the Bureau of Land Management. The Department administers the public's mineral resources in an even larger domain. It handles mineral leasing in the 190 million acres of National Forests even though these special lands are under the Department of Agriculture. Moreover, Congress has given Interior the responsibility of conserving, managing and selling the minerals that underlie a billion acres of the Outer Continental Shelf.

Beyond the National Wildlife Refuges, Interior's Fish and Wildlife Service manages and protects our migratory birds, an international resource; administers the Endangered Species Act; and together with the National Park Service cooperates with and assists the States in their own wildlife, park and recreational programs.

Then there are the Bureau of Indian Affairs, the Bureau of Reclamation, Geological Survey, and other agencies with far-reaching programs. The Department's work touches or potentially affects the lives of every citizen for good or bad.

The material prospecting and quality of life of the present and future generations - and indeed the very security of our Nation - depend in large measure on how well the Department of the Interior husbands, develops and manages the lands and resources under its jurisdiction. Only days ago Congress passed $8 billion in appropriations for the operations of the Department in fiscal 1984.

The point is, Mr. Chairman, these lands, resources and programs are far too important for Interior to be treated as a throw-away department by the President of the United States. This is no place for just anybody to serve as Secretary, no matter how aberrational his philosophy or how inexperienced and unqualified.

Through a century or more, Congress has painstakingly constructed a complex body of laws to direct and guide the Secretary of the Interior in the performance of his duties. Mr. Clark has had no part in the writing of those laws as have present and past members of Congress, some of whom were talked about and even sounded out for the post before the President selected his good personal friend. He has some judicial experience, but only in California courts where he dealt with state law, not with federal laws governing the federal lands and resources. He has had no administrative experience to prepare him for the Interior job. On whom will he depend for legal guidance and program execution? The Jim Watt team?

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I recognize the tradition concerning Cabinet appointments and the reality of the situation in the Senate. Mr. Clark is almost certain to be confirmed. However, we must object to the appointment and confirmation of a person so unqualified.

Senator HECHT. Thank you very much.

Mr. CALLISON. May I ask one question, please?

Will there be an opportunity to file supplementary material for the record?

Senator HECHT. Yes. The record will be held open. You may do so.

Mr. CALLISON. Thank you.

Senator HECHT. Ms. Dunlap.

STATEMENT OF LOUISE C. DUNLAP, PRESIDENT, ENVIRONMENTAL POLICY INSTITUTE, WASHINGTON, D.C.

Ms. DUNLAP. Good afternoon, Mr. Chairman.

Mr. Chairman, members of the committee, I'm Louise Dunlap, president of the Environmental Policy Institute, a national environmental organization engaged in research, public education, litigation, and lobbying to promote the fair and rational conservation and development of our Nation's natural resources.

The Environmental Policy Institute since its inception has been bipartisan both in organizational structure, and functionally through coalitions we have organized over the last decade, which have been diversed geographically, economically, and politically.

It is with regret that for the second time in 2½ years we come before this committee to urge you and your colleagues to vote against President Reagan's nominee for Secretary of the Interior. It is unfortunate that we predicted accurately the contentious confrontational and narrowly ideological philosophy and style of James Watt which would lead to polarization rather than consensus of the many interest groups effected by the policies of the Interior Department.

It is not a happy situation that has made real our prediction that James Watt's management of our Nation's public natural resources would reap political stalemate and paralysis rather than progress.

What is surprising is the Reagan administration's refusal to acknowledge the blindly partisan and impractical course charted by James Watt. Prior to the Reagan/Watt era natural resource policies had been shaped through remarkably bipartisan coalitions. The environmental laws and policies that President Reagan and James Watt have attacked as products of the Democratic Party are, in fact, products of their own party as well.

Even during the 1970's when the Democratic Party enjoyed substantial majorities in the House and the Senate, no legislation could pass without bipartisan support.

The Republican Party, until the Reagan administration, had great cause for pride in its leadership during the past century to preserve some of the most unique, pristine, and sensitive natural areas in America, while assuring the careful management of those natural resources that needed to be developed.

James Watt's management of the Interior Department, with the continual public approval of President Reagan, was bizarre and not consistent with traditional conservative values.

The Department now is so poorly managed that it does not even serve well those particular interest groups that Secretary Watt worked so carefully to favor.

As with the Environmental Protection Agency, it is essential that the Interior Department be perceived as an institution of fairness, competence, and integrity.

The credibility of those industries whose economic activities are regulated by Government agencies is jeopardized when the public loses confidence in the integrity, competence, and fairness of the regulating agency.

The polls indicate that the American public disapproved of more than James Watt's inappropriate and often pathetic wit. The American public has lost confidence in the Reagan administration's management of natural resources and protection of public health. And for good reason.

In the short time of 2 years, the Reagan administration has managed to bring to the brink of destruction both the Environmental Protection Agency and the Interior Department. And what has happened to William Ruckelshaus? In the first 6 months at EPA he has been blocked repeatedly by the White House from appointing a number of his top management choices. And his efforts to forge even the most modest clean air strategy, which has been identified as one of his highest priorities, is meeting heavy resistance and political paralysis within White House circles.

What can we expect from Judge William Clark as Secretary of the Interior?

Well, first, it must be said that there is a dramatically refreshing difference in the demeanor, personality and style of William Clark from that of James Watt.

In the telephone conversation I have had with him prior to these hearings, he displayed accessibility and personal decency. But, good manners, much as they are welcome and needed after James Watt,

will not make tolerable the continuation of bad policies by the Reagan administration.

While Judge Clark has assured me and other environmental leaders that he has the authority from the President and his own personal commitment, to conduct policy and personnel reviews at Interior, four major obstacles stand in the way of these proposed intentions.

[Bell sounds.]

Ms. DUNLAP. Is that my time clock?

Senator HECHT. Yes, but after that, I have given everyone about 1 minute to summarize.

Ms. DUNLAP. OK.

Senator HECHT. OK?

Ms. DUNLAP. Thank you. Thank you.

First, while Judge Clark has stated his intention to review personnel and policies at Interior, all other public signals from the President and his top White House staff suggests the opposite. And I won't repeat Bill Turnage said, but obviously we are very concerned by Ed Meese's comments October 14 that "the players may change, but the plays will be the same, in essence."

Second, with James Watt's team of political appointees still in control, Judge Clark's lack of experience and lack of understanding of the Department, and of our Nation's public lands and natural resources make him particularly vulnerable.

Third, despite Judge Clark's stated affinity for many of the Nation's magnificent natural areas managed by the Interior Department, his record as a California State Supreme Court justice and as undersecretary of state is one of narrow ideology.

Only the passage of time could explain the contrast between Judge Clark's current assurance to the environmental community that he will be an open minded judge at Interior and his past voting record on the California Supreme Court of 17 to 0 against sound environmental policies.

Fourth, there is the factor of time. Judge Clark has very little time in this term of the Reagan administration to master a Department of 56,000 employees with a labyrinth of laws, bureaucracies, and interest groups.

The Nation has very little time as well. With the passage of each day, each week, each month opportunities are being lost to acquire critically important parklands, wetlands, wildlife refuges, and other sensitive areas which Congress has acted to protect through acquisition, but which the Watt team at Interior has deliberately chosen not to protect.

Finally, I should say that we should not forget that many companies dependent on the permitting process of the Interior Department have very little time.

Aside from the severe loss of public trust and credibility, Interior's mismanagement under the Watt team poses growing problems for those companies who are experiencing increased opposition to their development plans.

Local citizens and governments can no longer have any expectation that the Interior Department will deal fairly with their concerns and interests, or involve citizens on a timely and meaningful way in the decisionmaking process.

Unfortunately, litigation, and congressional intervention have become the only effective methods of communicating with the Watt team.

Finally, I will just say that if Judge Clark is confirmed by the Senate, we will make every effort to work with him, to persuade him to change President Reagan's policies to restore fairness, credibility, and rationality to the management of the Interior Department.

But, absent specific commitments by Judge Clark to reverse Watt's policies, as outlined by all the groups here on the 34 key issues by the National Wildlife Federation, a vote for Judge Clark, despite his personal integrity, amiability and graciousness, is nonetheless a vote to continue the insensitive, inequitable, and often devastating natural resource policies of the Reagan administration.

Thank you.

[The prepared statement of Ms. Dunlap follows:]

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STATEMENT OF LOUISE C. DUNLAP, PRESIDENT

ENVIRONMENTAL POLICY INSTITUTE

AT THE CONFIRMATION HEARINGS OF WILLIAM P. CLARK

TO BECOME SECRETARY OF THE INTERIOR

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

SENATOR JAMES MC CLURE, CHAIRMAN

NOVEMBER 2, 1983

Mr. Chairman and members of the Committee, I am Louise Dunlap, President of the Environmental Policy Institute, a national environmental organization engaged in research, public education, litigation and lobbying to promote the fair and rational conservation and development of our nation's natural resources. The Environmental Policy Institute, since its inception, has been bipartisan both in organizational structure and functionally through coalitions we have organized over the last decade which have been diverse geographically, economically and politically.

It is with regret that for the second time in two and one-half years we come before this Committee to urge you and your colleagues to vote against President Reagan's nominee for Secretary of Interior. It is unfortunate that we predicted accurately the contentious, confrontational and narrowly ideological philosophy and style of James Watt which would lead to polarization rather than consensus of the many interest groups affected by the policies of the Interior Department. It is not a happy situation that has made real our prediction that James Watt's management of our nation's public natural resources would reap political stalemate and paralysis rather than progress.

What is surprising is the Reagan Administration's refusal to acknowledge the blindly partisan and impractical course charted by James Watt. Prior to the Reagan-Watt era natural resource policies had been shaped through remarkably bipartisan

coalitions. The environmental laws and policies that President Reagan and James Watt have attacked as products of the Democratic party are, in fact, products of their own party as well. Even during the 1970's, when the Democratic party enjoyed substantial majorities in the House and Senate, no legislation could pass without bipartisan support. The Republican party, until the Reagan Administration, had great cause for pride in its leadership during the past century to preserve some of the most unique, pristine and sensitive natural areas in America, while assuring the careful management of those natural resources that needed to be developed.

James Watt's management of the Interior Department, with the continual public approval of President Reagan, was bizarre and not consistent with traditional conservative values. The Department now is so poorly managed that it does not serve well even those particular interest groups that Secretary Watt had worked so carefuly to favor.

As with the Environmental Protection Agency, it is essential that the Interior Department be perceived as an institution of fairness, competence and integrity. The credibility of those industries whose economic activities are regulated by government agencies is jeopardized when the public loses confidence in the integrity, competence and fairness of the regulating agency.

The polls indicate that the American public disapproved

of more than James Watt's inappropriate and often pathetic wit. The American public has lost confidence in the Reagan Administration's management of natural resources and protection of public health. And for good reason.

In the short time of two years the Reagan Administration has managed to bring to the brink of destruction the Environmental Protection Agency and the Interior Department - the two most important government agencies in the country responsible for the protection of natural resources affecting our public health and the conservation and multiple use of most of our public lands. Even with scandal rocking EPA, the Reagan Administration strongly resisted changing its management course or its top personnel. Finally, with the inevitable necessity of removing Anne Grosuch Burford, the White House apparently recognized the political damage by recruiting William Ruckelshaus, a Republican with solid credentials and a nationally recognized former public official with extensive experience and respect.

What has happened to William Ruckelshaus? In the first six months at EPA he has been blocked repeatedly by the White House from appointing a number of his top management choices. And his efforts to forge even the most modest clean air strategy, which had been identified as one of his highest priorities, is meeting heavy resistance and political paralysis within White House circles.

What can we expect from Judge William Clark as Secre-

tary of Interior? First, it must be said that there is a dramatically refreshing difference in the demeanor, personality and style of William Clark from that of James Watt. In the telephone conversation I have had with him prior to these hearings he displayed accessibility and personal decency. But, good manners, much as they are welcome and needed after James Watt, will not make tolerable the continuation of bad policies by the Reagan Administration.

While Judge Clark has assured me and other environmental leaders that he has the authority from the President, and his own personal commitment, to conduct policy and personnel reviews at Interior, four major obstacles seem to stand in the way of these proposed intentions.

First, while Judge Clark has stated his intention to review personnel and policies at Interior, all other public signals from the President and his top White House staff suggest the opposite. Unlike, the belated and reluctant acknowledgement by the White House that political, management and environmental policy problems existed at EPA, thus necessitating the extraordinary appointment of William Ruckelshaus, there remains no such acknowledgement by the President or the White House that there are any problems with the management of the Interior Department or its management of the nation's natural resources.

In fact, the President has gone out of his way to send the opposite signals to the American people. The only public

reprimand James Watt received from President Reagan in his stormy two and one-half year tenure as Interior Secretary had nothing to do with his management of policies at the Interior Department. President Reagan's only public complaint about James Watt was over his impolitic remark about the Beach Boys and their fans. Even as James Watt was driven from office by those within his own party, President Reagan publicly went out of his way to reiterate his support for all of James Watt's policies and management intiatives at Interior. And since the nomination of Judge Clark to become Interior Secretary, as recently as October 14, one of the President's closest and most trusted aides, Edwin Meese, told a group of top Interior officials at a White House meeting that "the policies of this Administration, inaugurated by Jim Watt and approved by Ronald Reagan, will be the policies that will continue under the stewardship of Bill Clark." The players may change but the plays remain the same. All signals suggest that, despite Judge Clark's stated intentions, the Reagan Administration's anti-environmental agenda is expected to proceed full course ahead.

o Second, with James Watt's team of political appointees still in control of the Interior Department, Judge Clark's lack of experience and his lack of understanding of the Department and of our nation's public lands and natural resources makes him particularly vulnerable. Despite his stated intentions to review policies and personnel, unless Judge Clark makes a commitment to this Committee and the Senate to clean house within Interior's top management, it is almost certain that his lack of

experience and knowledge of the workings of the Department will prevent him from being anything other than a captive of the Watt team. Were the Interior Department not in such an abyss of demoralization and mismanagement, Judge Clark's lack of understanding of the Department would be of less critical concern.

o Third, despite Judge Clark's stated affinity for many of the nation's magnificent natural areas managed by the Interior Department, his record as a California State Supreme Court Justice and as Undersecretary of State is one of narrow ideology. Only the passage of time could explain the contrast between Judge Clark's current assurance to the environmental community that he will be an open minded judge at Interior and his past voting record on the California Supreme Court of 17-0 against sound environmental policies. His most recent opportunities to display an understanding of responsible natural resources management occurred at the State Department. But his personal involvement in acid rain negotiations with Canada and the Law of the Sea conference can only be considered a liability, not a credential, because the Reagan Administration's failures in both of these areas are understood throughout the world.

o Fourth, there is the factor of time. Judge Clark has very little time left in this term of the Reagan Administration to master a Department of 56,000 employees with a labyrinth of laws, bureaucracies, and interest groups. The nation has very little time as well. With the passage of each day, each week, each month opportunities are being lost to acquire

critically important parklands, wetlands, wildlife refuges and other sensitive areas which Congress has acted to protect through acquisition, but which the Watt team at Interior has deliberately chosen not to protect. Thousand of acres of newly strip mined areas are being left freshly abandoned in Appalachia, despite the enactment of the federal strip mine law. Streams, groundwater and agricultural lands are coming under increased pollution pressures in many areas of the country due to the scandalous lack of enforcement of the strip mine law by the Watt team. Our nation's natural resources are under unprecedented pollution and development pressures from Watt's political appointees, who still run the Interior Department.

And many companies dependent upon permitting processes by the Interior Department have very little time. Aside from the severe loss of public trust and credibility, Interior's mismanagement under the Watt team poses growing problems for those companies who are experiencing increased opposition to their development plans. Local citizens and governments can no longer have any expectation that the Interior Department will deal fairly with their concerns and interests, or involve citizens in a timely and meaningful way in the decisionmaking process. Litigation and Congressional intervention have become the only effective methods of communicating with the Watt team at Interior.

It is perhaps unrealistic to have expected President Reagan to nominate as a replacement for James Watt a nationally respected person knowledgeable in natural resource management

policies, despite the abundance of qualified candidates within the Republican party. I believe the American people were hoping for such an appointment, and are surprised and disappointed that President Reagan did not understand his own responsibility.

It does not seem inappropriate or unrealistic, however, to expect that the United States Senate, even though its majority is Republican, would give more careful consideration to the nomination of William Clark in 1983 than was given Anne Gorsuch Burford or James Watt in 1981. It is not only a Constitutional responsibility of the Senate to actually scrutinize the qualifications of this nomination, but it would also constitute an act of political loyalty to the President by Republicans to make a serious effort to steer the natural resources management policies off the radical course charted by James Watt.

Why would this be an act of political loyalty to the President by Republican Senators? Because the environmental policies of President Reagan are not only divisive and dangerous for the nation, they are losers politically. Short of voting, the American people could not be sending clearer signals than they are through continuing overwhelming disapproval of President Reagan's anti-environmental agenda through repeated and diverse public opinion polls.

The Senate, regardless of party affiliation, should have another special concern for obtaining firm commitments from Judge Clark prior to a Committee vote on this nomination. Just

within the past few months the Congress has found it necessary to go through the arduous process of repudiating the Watt team at Interior on a series of important natural resource policies in which Interior had deliberately ignored the intent of Congress. From the recent suspension of the coal leasing program to new restrictions for protection of sensitive offshore areas from oil leasing to a ban on new leasing in wilderness and wilderness study areas, the Congress has repeatedly been forced to reiterate its legislative intent to the Interior Department.

Not only must the Watt team be removed as one condition of confirmation of William Clark, but Judge Clark's specific commitment to reverse many of Watt's policies is critical prior to a confirmation vote, particularly in light of his lack of background in natural resources management.

In reviewing James Watt's policy and management legacy at Interior, it is important to understand the great dichotomy between the Administration's rhetoric and actions. In contrast to President Reagan's law and order rhetoric, the Interior Department under the Watt team has operated with frightening regularity either outside the law or on the fringes of the law.

STRIP MINE ENFORCEMENT

o Interior has failed to collect fines on over 1,099 outstanding violations, thus encouraging the coal industry to ignore the

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strip mine law. To-date, Interior has only recovered $78,000 of more than $59 million in assessed penalties. Only under court order has the Department begun the process of collecting these fines and requiring site clean-up. In Save Our Cumberland Mountains v. Watt, U.S. District Court for the District of Columbia, December 29, 1982, Judge Barrington Parker issued his opinion that the defendant (Secretary Watt) was "flouting the law" in failing to move expeditiously to recover outstanding penalties.

o The Department has failed to collect between $25 million and $100 million from coal operators refusing to pay their required fees for the Abandoned Mine Land Fund.

o Under Watt, Interior has failed to require the states to bring strip mine operator permits into full compliance with the law. Violations of the strip mine law are now so rampant in the coalfields that the Department has closed its records to the public.

COAL LEASING:

o Earlier this year the Department "leaked" minimum bid levels to industry prior to the Powder River Basin coal lease sale. This resulted in bids at or near these leaked levels with losses to the Treasury estimated in the range of $60 million to $100 million.

o The 1976 Federal Coal Leasing Amendments Act requires pre-1976 leases to be subject to diligent development by 1986 or have penalties applied to the holders of those leases. Secretary Watt has rewritten the regulations so that diligence penalties will not be applied to those leases until 1996 at the earliest.

OFFSHORE OIL AND GAS LEASING

o Secretary Watt has repeatedly ignored the concerns of citizens, states and Congressional delegations on the selection of Outer Continental Shelf (OCS) tracts off their coasts. While the Secretary has the discretion to override these concerns, Congress clearly intended that he consult and bargain in good faith with state governments

under the 1978 OCS legislation. Under Watt six of the ten offshore lease sales have been challenged and nine states have had no choice but to litigate against the Interior Department.

Despite Watt's rhetoric that many interest groups needed the Reagan Administration to protect them from the abuses of the centralized Federal government, the Interior Department under Watt has often abandoned, if not overrun, key interest groups with whom the Reagan Administration has claimed to be in close alliance.

STATE AND LOCAL GOVERNMENTS

Consistently Interior has failed to consult with affected state and local governments in the formulation of its five year program for oil and gas leasing on the Outer Continental Shelf, and in the development of the new coal leasing program which severely limits the involvement of states in the pre-leasing planning process. The turmoil created in the strip mine program by the entire rewriting of the regulations has caused great confusion in state enforcement with the weakened

regulations making it harder for states to enforce the law where that is their intent. The "Asset Management Program", with massive proposed land sales by the Bureau of Land Management (200,000 acres proposed for sale in FY 84) failed to adequately involve affected states, and the Interior Department has repeatedly attempted to zero out payments-in-lieu of taxes.

AGRICULTURE

In the areas of coal leasing, strip mining and the Asset Management Program, Interior has consistently worked to diminish the rights of surface owners over Federal coal, reduce groundwater protection from strip mine damage, place more pressure on prime farm lands for potential strip mining, and reduce, if not eliminate, serious consideration of agricultural land uses in the BLM planning process and the Asset Management Program.

INDUSTRY

As Interior's credibility has been severely damaged with the public, many industry interests have found themselves under greater pressure from local citizens organizations no longer able to rely on the Interior Department for equitable treatment. In the OCS and coal leasing programs, industry interests have ultimately not been sell served as too much acreage and tonnage has been offered for lease, revealing inadequate industry interest to prop up Watt's unrealistically aggressive programs. In the coal leasing program Watt's coal policy specialists have actually set industry back by paralyzing the leasing program through a series of needless conflicts with affected citizens and state governments. Under the strip mine program, Watt's unnecessary rewrite of all the strip mine regulations has forced the industry to function under greater uncertainties. Watt's efforts to eliminate wilderness

areas have, in some cases (Bisti, New Mexico), destroyed agreements arrived at by Congress, the mining industry and environmentalists, provoking conflicts in areas where industry had expected consensus.

If Judge Clark is confirmed by the Senate, we will make every effort to try to work with him to persuade him to change President Reagan's policies to restore fairness, credibility and rationality to the management of the Interior Department.

But, absent specific commitments by Judge Clark to reverse Watt's policies, as outlined in thirty-four key issues by the National Wildlife Federation, a vote for Judge Clark, despite his personal integrity, amiability and graciousness, is nonetheless a vote to continue the insensitive, inequitable and often devastating natural resource policies of the Reagan Administration.

Senator HECHT. Thank you very much. As I said earlier, any more testimony that you want will be put into the record.

Senator Chafee, do you have some questions?

Senator CHAFEE. I do.

Ms. Dunlap and others, I think that being realistic that despite the views that have been expressed here today, Judge Watt will be confirmed.

Senator HECHT. Excuse me—let's get the record straight.

Senator CHAFEE. I mean Judge Clark.

Ms. DUNLAP. You got our message. [Laughter.]

Senator CHAFEE. I have been listening. You can't say that I haven't been listening to you.

Ms. DUNLAP. Thank you.

Senator CHAFEE. Now——

Senator HECHT. Excuse me for interrupting, but I wanted to get the record straight. I think it is clear.

Senator CHAFEE [presiding]. I think that is fair.

Now, assuming that, what is the first order of business that he should undertake? What is your advice to him, the first order of business?

Mr. TURNAGE. Well, I would say the first thing he needs to do is to fire all those Watt's top people.

Senator CHAFEE. Well, I don't know the mining people on that side—you can fire away on that.

Mr. TURNAGE. Absolutely. But let me say why I think that is very important, because Mr. Clark is so ignorant of the issues and so unwilling to express any kind of an opinion or commitment to what his views are, even if you did not have the problems that we have with his record as a judge and the Reagan administration's policies, we would want him to come in and, as it were, be trained and educated by a group of people who were sensitive to the environment, not a group of people who are out of the same extremist mold that James Watt came from.

That is why I think that is the very first step, because he is going to be getting his briefings and his sense of the history of the issues from a group of rightwing anti-environmentalists.

Senator CHAFEE. Mr. Pomerance.

Mr. POMERANCE. I want to take issue with the statement that I am here to address the confirmation. You missed my statement, so I will repeat a little of it.

Senator CHAFEE. Yes, I got here—you were only 5 minutes, so I——

Mr. POMERANCE. Just in brief——

Senator CHAFEE. But I read it.

Mr. POMERANCE. We have had Watt. We have had Gorsuch. The Senate owes something to the American people to get someone's views on the record.

My suggestion is give Mr. Clark some more time to study; then have another hearing on his confirmation in 2 weeks, so you can get some answers. There have been no answers on any significant issues, so when you vote to confirm him, you don't know what you are voting on in terms of the issues.

Even Secretary Watt addressed some issues in his confirmation hearings. I think we could expect that much. The—I agree if he is

in office, which I hope he won't be, but the second thing besides cleaning house is a switch in budget priorities and policy priorities. I have enumerated them. They are fairly straightforward. The land and water conservation fund, environmental planning versus lease processing; putting the Office of Surface Mining back together; getting law and order into the coal hills; collecting uncollected fines; getting some more inspectors; running the program like it is supposed to be run.

Reorder, putting back BLM areas for studies, potential wilderness. There are a host of things he could do fairly quickly that would be very good.

Senator CHAFEE. All right. Mr. McCloskey?

Mr. MCCLOSKEY. I would agree with both of the foregoing speakers about the need for personnel changes, the need for changes in the spending patterns. I would agree with a list of the 34 items, a list of a dozen items or 6 items, however you want them. They are in our testimony.

I might emphasize that one very simple test would be just to look at the areas that are supposed to be nature reserves at various sorts. Will they really be treated with the respect that are due? Whether we are talking about national parks and geothermal leasing; whether we are talking about wilderness study areas; whether we are talking about wildlife refuge issues. The list is long and sad. We need some reassurances right there that the areas that are supposed to be protected as nature's sanctuaries really will be.

That is the simplest area, leaving aside all the areas of complex commercial conflict.

Senator CHAFEE. OK. Mr. Callison?

Mr. CALLISON. Senator Chafee, several times during the testimony by Mr. Clark we heard him—and during the time he was being questioned by members of this committee—we heard him say, "But I haven't find out the Department's position on that issue."

Even when remembering—reminded by a member of this committee that it would be his responsibility to determine the Department's position on issues, he would return and say: "After I review all the facts, and learn what the Department's position is, then I will make a decision."

Now, that caused me to grow increasingly apprehensive because he sounded as if he is going to listen to the James Watt team and find out from them what the Department's position is, instead of setting out independently with an independent mind to determine what the position is on these issues.

So, I have to agree with Bill Turnage, and my other colleagues here that the one thing that he could do that would most reassure the people of this country would be to clean house in the Department of the Interior, and appoint his own Assistant Secretaries and Undersecretaries, and Chief of Policy Analysis.

And then examine the different bureau chiefs to see if they are flexible enough to change to a more sensible and conservative policy in the Department of the Interior.

Senator CHAFEE. Ms. Dunlap?

Ms. DUNLAP. Well, I would agree that I think a delay in the vote of this committee would be not only helpful to the public debate, but probably would be very helpful to Judge Clark, who, when I

talked to him—and I am sure he said this to all of you, too—has been very busy in international issues, not domestic, natural resources during the last week.

I think it would help him figure out what he wants to do if he is confirmed. I think it would improve the quality of the debate in the Senate, and I think the Republican controlled Senate would be doing their President a favor by sorting through some of these issues. The policies of James Watt and Ronald Reagan may be playing to certain audiences, but with the polls consistently showing the American people think these policies are losers, and I honestly think it is in the interest of the Republicans in the Senate to be cautious and careful and thorough in this debate, not for the purposes of what might be construed as embarrassment to their party, but to really make an effort to restore some bipartisan efforts to natural resource policies. The top priority is cleaning house with the top management.

The second priority is restoring key funding levels.

The third priority is getting serious about enforcing laws. In the strip mining area alone there are, to date, only $78,000 out of more than $59 million in assessed penalties that have been collected by the Interior Department.

Strip mine operators around the country have failed to contribute between $25 million and $100 million in the abandoned mine land fund, and the Interior Department, under James Watt, has withheld $600 million out of $900 million collected from the coal industry for the abandoned mine land industry. That money could be spent on jobs in Appalachia and some of the highest unemployment areas of the country. It is in violation of the Strip Mine Act, and there are serious, serious problems, not just problems of degree, of philosophy; there are flagrant violations of law; and it is a very serious situation that is not going to go away, in my opinion, by a speedy confirmation.

Senator CHAFEE. Let me ask you a question. I confess I don't know much about the mining side of the activities of the Interior Department. I have not had occasion to get into that.

Are these statistics you cite quite different from the statistics that existed under the prior administration?

Ms. DUNLAP. Well, yes, they are. First of all, the law was not enacted until August 1977, and the Reagan administration came into office in 1981 just as the strip mine program was coming into full blossom. At that point, James Watt came in and rewrote all the strip mine regulations, throwing the industry into total uncertainty, throwing chaos into the State regulatory programs, and the procedures that were supposed to be followed in the last several years then abandoned.

There has—for two consecutive fiscal years, the Watt Interior Department has submitted very low requests for abandoned mine land funds, and it is the Congress that has forced Interior to spend more money. Even so, there are $600 million in the Treasury, collected from the coal industry under the law, that is not being spent, not generating jobs and it means rivers, streams, farmlands, are continuing to be polluted.

So, it really has escalated dramatically.

Senator CHAFEE. Mr. Smith?

Mr. SMITH. Thank you, Senator. I echo my colleagues' concerns that we need to have a period of time in which we can find out much more definitively just what Mr. Clark's positions are. I don't think that we have any idea what that is at present. I think that as far as the priorities go, I would like to echo also that personnel, policy, and the funding levels are very key areas which need to be completely changed and reviewed.

The present policies are analogous to spending capital. If I may borrow a business analogy, having spent half of my life in professional business, when you have a business situation, you have a thing called a fiduciary responsibility, to the capital of an organization. You don't squander and spend capital. That is analogous to the stewardship responsibility that a Secretary of the Interior has. The present policies do not meet that standard, and they need to be completely reviewed and overhauled.

Senator CHAFEE. All right. I think that completes——

Well, I just—the chairman has stated that with the completion of this panel, the hearing scheduled for tomorrow on the Clark nomination is canceled. Written questions for Judge Clark to answer for the record should be submitted by close of business today.

Most of them, I note, have already been submitted, and that is by 5 o'clock if people have written questions they want to get in, get them here and we will get the answers.

Well, I know the views of those present here because some of us met together with Judge Clark, and it just seems to me that if Judge Clark is confirmed, it behooves us all to start off in a spirit of reconciliation despite the strongly held views that are held here. And I am not beyond being—I am of the belief that your views can be transmitted and heard. Certainly, Judge Clark has so indicated, as a major difference in any event at this point from the attitude that Mr. Watt took.

So, in connection with your views, I just hope that despite your opposition, in the event that he is confirmed, you will come forward and give him your thoughts on what should be done, say, in the coal mining area, which is, as I mentioned, is an area that I don't know much about; in the redirection of the funds, in the personnel, in the enforcement of the laws.

That is my hope that will be coming from you folks despite the fact that you were in opposition to his appointment.

Anything else anybody wants to say?

[No response.]

Mr. CALLISON. Thank you very much.

Senator CHAFEE. Well, thank you for coming, and, if there is nothing else, the committee is adjourned.

[Whereupon, at 3:20 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Biography and Informational Statement of William P. Clark

THE WHITE HOUSE

WASHINGTON

WILLIAM P. CLARK

William P. Clark of Paso Robles, California, became Assistant to the President for National Security Affairs, Washington, D. C., in January 1982, leaving his previous post as Deputy Secretary of State. Mr. Clark attended Stanford University. From 1954 to 1956 he served in the United States Army Counterintelligence Corps.

After attending Loyola Law School, Los Angeles, from 1956 to 1958, Mr. Clark was admitted to the California Bar and practiced law in Oxnard as senior partner in the firm of Clark, Cole & Fairchild.

Mr. Clark served as Cabinet Secretary to then Governor Reagan and a member of the Governor's Task Force on Governmental Reorganization from 1966-67, when he was appointed Executive Secretary. In 1969 he was appointed judge of the Superior Court in San Luis Obispo County. He was named to the Court of Appeal in 1971 and to the California Supreme Court in 1973, where he served until his appointment as Deputy Secretary of State on March 25, 1981.

His civic activities include Stanford Associates, California Cattleman's Association, Charros, and Rancheros Visitadores.

Mr. Clark is married to the former Joan M. Brauner and they have five children - Monica, Peter, Nina, Colin and Paul.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: CLARK (LAST) WILLIAM (FIRST) PATRICK (OTHER)

Position to which nominated: Secretary of the Interior Date of nomination: October 13, 1983

Date of birth: 23 - 10 - 31 (DAY) (MONTH) (YEAR) Place of birth: California, USA

Marital status: Married Full name of spouse: Joan M. Brauner (Clark)

Name and ages of children: Monica (27) Colin (24)
Peter (26) Paul (20)
Nina (25)

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Stanford University Stanford, CA	1949-50	None	
Augustinian Novitiate New Hamburg, NY	1950-51	None	
Univ. of Santa Clara Santa Clara, CA	1951-52	None	
Loyola Law School Los Angeles, CA	1952-53 1955-57	None	

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Feb 82-Present	Assistant to the President for National Security Affairs	Washington, DC
Mar 81-Feb 82	Deputy Secretary of State Department of State	Washington, DC
Mar 73-Mar 81	Associate Justice, Supreme Court, State of California	San Francisco, CA
Aug 71-Mar 73	Associate Justice, Court of Appeal, 2nd District, State Building	Los Angeles, CA
Jan 69-Aug 71	Judge, San Luis Obispo County, Superior Court, St of California	San Luis Obispo, CA
Jan 67-Jan 69	Executive Secretary, Office of the Governor	Sacramento, CA
Mar 58-Jan 67	Attorney, Self-employed	Oxnard, CA
Jan 56-Mar 58	Insurance Adjuster, USF&G Insurance Company	Los Angeles, CA
Dec 53-Dec 55	Agent, U.S. Army (CIC)	
1941-1953	Constant employment as rancher, waiter, house painter, sports coach	California & Oregon

Employment record—Continued

Military service: Enter all military service if not included above: service, dates, rank, type of discharge.

See above. SP-3. Honorable discharge.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Several honorary degrees proffered but rejected.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (If any)	Dates
Rancheros Visitadores Santa Barbara, CA	None	1955-Present
Stanford Associates Stanford, CA	None	1960-1978
Calif. Judges Assoc'n San Francisco, CA	None	1969-Present
Calif. State Bar San Francisco, CA	None	1958-1969 1981-Present

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

I have written and published approximately 750 legal opinions in courts of record during 12-year term as a California Judge/Justice. Approximately half of these opinions are reported in California Reports, 3rd, between 1973 and 1981.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Present working relations will be terminated.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

No plans for future employment.

3. Has anybody made you a commitment to a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

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I possess a life-long interest in our heritage of resources, particularly our natural environment, believing we have a mandate to conserve our heritage for future generations consistent with our needs for survival.

My experience in the judiciary made me aware of legitimate interests which, to be appropriately served, make competing demands on our resources and environment; my experiences as Deputy Secretary, Department of State, made me aware of international concerns which relate to our environment and resources; my experience as Adviser to the President for National Security Affairs made me aware of the important relationships between our resources and our national security.

Most of all, I seek confirmation as Secretary of the Department of Interior because the President has asked me to so serve. I shall amplify this answer on request.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

I have otherwise been employed by the Federal Government since March 1981.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Should a conflict of interest develop, I will seek counsel from the Designated Agency Ethics Official within the Department of the Interior, and I would expect to follow that advice.

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them.

Please incorporate the second paragraph of the Department of Interior's letter of October 20, 1983 addressed to Mr. David H. Martin, Director, Office of Government Ethics, copy of which letter has been separately delivered to the Committee.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 20 1983

Mr. David H. Martin
Director, Office of Government Ethics
Office of Personnel Management
1900 E Street, N.W., Room 436H
Washington, D.C. 20415

Dear Mr. Martin:

The financial statement filed by Mr. William P. Clark for the position of Secretary of the Interior has been reviewed in compliance with 5 CFR 734.604(a). Except for Mr. Clark's vested interest in the State of California Judge's Retirement System, none of the reported interests raises any question as to the statutory or regulatory prohibitions applicable to the Secretary of the Interior.

In addition to the Governmentwide conflict of interest prohibitions, the most important of which, for this review, is 18 U.S.C. §208, the Secretary of the Interior is also subject to several prohibitions unique to our Department. The unique prohibitions are 18 U.S.C. 437; 30 U.S.C. 6; 30 U.S.C. 1211(f); 43 U.S.C. 11 and 43 U.S.C. 31a. Except for 30 U.S.C. 1211(f) each of these statutes is extended to the Secretary of the Interior by Department regulations. I have compared each reported interest to the provisions cited and I have determined that none of Mr. Clark's interests results in violation of these unique provisions. And, I have determined that these unique prohibitions do not apply to the interests owned by Mr. Clark's son.

I base my determinations on the following analysis:

Mr. Clark has an undivided interest in two acres of an approximate 880-acre ranch in Shandon, California. Mr. Clark's personal residence, currently unoccupied, is situated on this two acres. Although information about a personal residence does not have to be reported, Mr. Clark volunteered this information to help explain the extent of his personal interest in ranch property. The remaining acreage is owned by Mr. Clark's three sons, one of whom is 20 years old and still a dependent under the definition of dependent child in the Ethics in Government Act. Refer to 5 U.S.C. App. §209(7). Therefore, the interests of Mr. Clark's one dependent son are properly reported.

The interests owned by Mr. Clark's dependent son are not subject to the unique prohibitions applicable to the Department of the Interior since the interests do not involve Federal lands or coal mining operations. Also, the son's interests are not subject to the provisions of 18 U.S.C. §208 since 18 U.S.C. §208 refers to "minor child." By the use of the word "minor" in reference to children in 18 U.S.C. §208, Congress intended to refer to the legal concept of minority/majority and the question of dependency for tax purposes is not relevant. "Minor" was added to §208 by the Senate Judiciary Committee, which stated:

> "The bill, as it came before the Committee, makes no distinction between minor children and those who have attained a majority. The Committee believes that only the interest of a minor child should serve to disqualify the employee and has amended Section 208 accordingly." S. Report. 2213, 87th Congress, 2d Session 14 (1962)

The California Civil Code §25.1(b) defines the age of majority as eighteen (18). Consequently, the interests owned by Mr. Clark's son are not covered by 18 U.S.C. §208.

Even though the provisions of 18 U.S.C. §208 do not apply to the son's holdings, I included his interests in my research of our Department's records. Comparing the data available from our various bureaus and from Mr. Clark's financial disclosure form I have determined that:

1. The ranch property in Shandon, California, does not receive water from any Bureau of Reclamation Irrigation Project.

2. None of the ranch or other property interests are adjacent to or near any Federal lands administered by the Department of the Interior.

3. There are no Federal land permits or other rights issued by the Department of the Interior to Mr. Clark or any of his sons, Clark Land Company or Clark Brothers Cattle and Grain Company.

4. Clark Land Company has no business relationships with the Department of the Interior.

5. The rent received from Phillips Petroleum Company by Mr. Clark's son is generated from the lease of private lands and does not constitute an equity interest in the company or an interest in Federal lands. Further, Mr. Clark himself has no resultant financial interest in Phillips Petroleum Company. Although Phillips Petroleum Company leases 290,295 acres of Federal land from our Department for oil and gas operations and 1,280 acres for other mineral operations, there is no relationship between such leases on Federal land and the lease on the private land disclosed on Mr. Clark's disclosure form. Consequently, a recusal statement is not required.

6. Sears, Roebuck and Company has no continuing business operations with our Department.

I have determined that none of the ranch management and realty operations of the Clark Land Company are related to the Department of the Interior or to Federal lands administered by the Department of the Interior. I was informed by White House counselor Lawrence Garrett that the professional building owned by Mr. Clark houses the Clark Land Company's ranch management and realty operations and an attorney's office,

and that Clark Brothers Cattle and Grain Company reports no business relationships with the Department of the Interior. I was also informed by Mr. Garrett that the $219.57 payment Mr. Clark received from the State of California Judge's Retirement System was a one-time payment received by all California Judges affected by a judgment concerning their compensation. This one-time payment arose out of Mr. Clark's status as a judge for the months of January and February 1981, in the State of California.

I conducted my analysis of Mr. Clark's vested pension interest by using Formal Advisory Opinion 83 OGE 1, dated January 7, 1983. Opinion 83 OGE 1 states:

> "A government employee has a financial interest in a particular matter when there is a real possibility that he might gain or lose as a result of developments in or resolution of the matter.
>
> ....
>
> We are also of the view that where a pension fund is controlled by employees of the sponsoring organization, the Government employee ordinarily has a financial interest in matters affecting the organization."

In this instance the "organization" is the state of California. The manager of the Board of Administration Public Employee Retirement System for the state of California provided these facts:

1. Pension payments are made from a fund consisting of judges contributions, state matching funds, court fees, profits from fund investments and annually appropriated funds from the state treasury.

2. State law provides that sufficient funds must be appropriated to insure that state pension commitments are met. California Government Code $75107.

3. The Board administering the pension fund consists of elected state officials and state employees.

4. The Board is part of the California State Government structure as a unit or division under the California Secretary of Consumer Affairs.

Based on the OGE opinion, Mr. Clark's vested pension interest might be construed as a financial interest under 18 U.S.C. $208. As Secretary, it will be necessary for Mr. Clark to be involved in particular matters involving the state of California. However, I believe that since the legislature is required by state law to appropriate necessary funds to meet pension payments, clearly Mr. Clark cannot gain or lose as a result of developments in or resolution of any particular matter. Moreover, Mr. Clark's pension is not payable to him until he reaches age sixty-three. The pension interest is vested and cannot be used or directly affected in any way by Mr. Clark. Accordingly, it is my determination that his pension interest is too remote, too inconsequential and not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the Secretary of the Interior. I believe a waiver from the President is not necessary. However, if you disagree I feel a waiver would be entirely appropriate based on the facts as discussed above. Mr. Garrett is aware of this position.

My review of the other items reported by Mr. Clark reveals no other problems with any applicable conflict of interest statutes or regulations. Please call me at 343-4502 should you have any questions.

Sincerely,

Richard R. Hite
Principal Deputy Assistant Secretary
and Designated Agency Ethics Official

cc:
Mr. William P. Clark

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

I have no vested or anticipated incomes other than a vested interest in a California State (Judge's Retirement System) pension which will begin paying benefits in 1994, and benefits which may accrue from my current government service.

3. Are any assets pledged? (Add schedule.)

No

4. Are you currently a party to any legal action?

No

5. Have you ever declared bankruptcy?

No

6. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

7. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

OCT 20 1983

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by William P. Clark, who has been nominated by President Reagan for the position of Secretary of the Department of the Interior.

We have reviewed the report and have also obtained advice from the Department of the Interior concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. A copy of a letter dated October 20, 1983 from Richard Hite, Principal Deputy Assistant Secretary and Designated Agency Ethics Official, Department of the Interior, is also enclosed.

This Office agrees with the Department of Interior's conclusion that a financial interest of the nominee's son, who has attained the age of majority under state law, is not attributable to the nominee for purposes of 18 U.S.C. § 208.

The nominee reports a vested interest in the State of California Judges' Retirement System. We have reviewed the pension plan, and have concluded that it covers a broad class of employees, antedates any anticipation of the nominee's entry into Federal Government Service, and complies with the necessary finding of bona fides for purposes of 18 U.S.C. § 209(b). Further, we do not view the pension plan as being a financial interest of the nominee within the meaning of 18 U.S.C. § 208(a) which will disqualify him from taking official actions on particular matters involving the State of California. While it is true that the pension fund is controlled by employees of the State, by law the legislature of the State of California is required to appropriate necessary funds to meet pension payments. No further contributions are being made on behalf of the nominee, and the possibility that the nominee may gain or lose as a result of Department of Interior decisions affecting the State of California is purely speculative. Accordingly, we view this interest as a vested pension interest not cognizable under the provisions of 18 U.S.C. § 208(a).

Based upon the foregoing, we believe that Mr. Clark is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosures

FINANCIAL DISCLOSURE REPORT

Form Approved
OMB No. 3200-0000

Page 1

Reporting Status (Check Appropriate Box): [ ] Incumbent [X] New Entrant, Nominee, or Candidate [ ] Termination Report	NOTE: All schedules must be filed. Enter "None" in areas or across schedules where appropriate.	Agency Use Only: Date Filing (Month, Day, Year) OCT 18 1983 ETHICS OFFICE	OGE Use Only: OCT 20 1983

Reporting Individual's Name	Last Name: CLARK	First Name and Middle Initial: WILLIAM P.		
Position for Which Filing	Title of Position: Secretary	Department or Agency (If Applicable): Department of the Interior	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.):	Termination Date (If Applicable) (Month, Day, Year):
Location of Present Office	Address (Number, Street, City, State and Zip Code): The White House, Washington, D.C. 20500		Room Number: West Wing	Telephone No. (Include Area Code): (202) 456-2255

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Committee on Energy and Natural Resources	Do You Intend to Create a Qualified Diversified Trust? [ ] Yes [X] No
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: Assistant to the President for National Security Affairs	
Certification: I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual: William P. Clark	Date (Month, Day, Year): October 17, 1983
Agency Ethics Official's Opinion: The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official Reviewing Official: Richard R. Hite — Richard R. Hite, Designated Agency Ethics Official	Date (Month, Day, Year): 10-18-83
Office of Government Ethics Use Only	Signature: David H. Martin	Date (Month, Day, Year): 10-20-83

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

(Check box if comments are continued on the reverse side) [ ]

(Rev. 6-81)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? ... or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		X
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them; and 4. You do not have knowledge as to the composition of such interest or liabilities.		

Page Number	2	Schedule A

Reporting Individual's Name: William P. Clark

Agency Use Only

Date of Filing (Month, Day, Year)

Special Ref. or Description Only if DC	Identification	Income: Type of Income (✓) Dividends	Rent	Interest	Capital Gains	Expected Trust	Qualified Trust	Other (Specify)	Income: Category of Amount or Value (✓) None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount (Only if "Other" Specified)	Date (Mo., Day, Yr.) (Only if Honoraria)	Interests in Property: Valuation of Assets (✓) Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$500,000	Over $500,000
	(January 1982 thru October 17, 1983)																								
	Ranch, Shandon, CA - An Undivided Interest in 2 Acres - (Residence)								X1 X2										A				X		
	Professional Bldg., 1031 Pine St., Paso Robles, CA		X										X1 X2						A				X		
	U.S. Government T-Bills			X									X1 X2						H			X			
	Clark Land Co. - Ranch Mgt. & Ranch Realty, Paso Robles, CA	X							X1 X2										A	X					
DC	Ranch - Fee Simple Interest in Trust: 240 Acres, Shandon, CA		X					Income FM Crops (83)		X2			X1					$4000	C	(1965		X			
DC	Clark Bros. Cattle & Grain Co. (Partnership - 3 Sons)		X						X2				X1						A		X	(Interest in Cattle)			
DC	Phillips Petroleum - Interest in Rental Oil Lease on Ranch Prp.		X									X2	X1						A		X2	X1			
DC	Sears Roebuck - Common	X								X1 X2									H	X					

Legend: X1 = 1982 X2 = 1983

Sch. 2(b) Financial Disclosure Report
(Rev. 1-81)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? ... or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them; and 4. You do not have knowledge as to the composition of such interest or liabilities.		

Page Number	3	Schedule A

Reporting Individual's Name: William P. Clark

Agency Use Only

Date of Filing (Month, Day, Year)

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓): Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓): None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount: Only if "Other" Specified	Date (Mo., Day, Yr.): Only if Honoraria	Interests in Property: Valuation of Assets (✓): Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	State of California Judge's Retirement System							Share of Judgment									$219.57		H				X		

SF 278 - Financial Disclosure Report
(Rev 6/81)

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number	4	Schedule B

Reporting Individual's Name: CLARK, WILLIAM P.

Agency Use Only

Date of Filing (Month, Day, Year)

Report Applicable Transactions, Even if Also Reported on Schedule A

S or DC	Identification of Property (real and personal)	Type of Transaction			Date (Month, Day, Year)		Category of Amount or Value (✓)					
		Purchase	Sale	Exchange	Purchase	Sale or Exchange	$1,001 to $5,000	$5,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	NONE (1982 - 1983)											

LP 278 - Financial Disclosure Report
(Rev. 6/81)

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number 5	Schedule C
Reporting Individual's Name: CLARK, WILLIAM P.	
Agency Use Only	
Date of Filing (Month, Day, Year)	

(1982)

I. Lodging, Transportation, Food and Entertainment—*List each source totaling $250 or more in value*

S or DC	Source (Name and Address)	Brief Description	Value
	NONE		

II—All Other Gifts—*List each source totaling $100 or more in value*

S or DC	Source (Name and Address)	Brief Description	Value
	The Honorable Edward P.G. Seaga M.P. Prime Minister of Jamaica	One Box of Cigars	$ 122.00
	The Honorable Noboru Takeshita Tokyo, Japan	Household, Plate, Porcelain, 12¼" Diam.	$ 85.00
S	The Honorable Noboru Takeshita Tokyo, Japan	Scarf: Silk, 35" x 36"	$ 60.00

III. Reimbursements—*List each source totaling $250 or more in value*

S	Source (Name and Address)	Brief Description	Value
	NONE		

SF 278 - Financial Disclosure Report
(Rev. 6/81)

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number	6	Schedule	G

Reporting Individual's Name: William P. Clark

Agency Use Only

Date of Filing (Month, Day, Year)

(1983)

I Lodging, Transportation, Food and Entertainment—*List each source totaling $250 or more in value*

S or DC	Source (Name and Address)	Brief Description	Value
JT	The Tricentennial Cmte. of 300 years of German immigration to the USA, 1683-1983, Inc., Anaheim, CA	Lodging, Transportation & Food in conjunction with speech to German-American Tricentennial Dinner at Anaheim Marriott Hotel, 9/16/83. (Acceptance allowed under 5 U.S.C. 4111(a))	$2386.00

II—All Other Gifts—*List each source totaling $100 or more in value*

S or DC	Source (Name and Address)	Brief Description	Value
	The Honorable Yasuhiro Nakasone Prime Minister, Japan	Incense Burner, 3-footed glazed ceramic	$75.00
S	The Honorable Yasuhiro Nakasone Prime Minister, Japan	Clutch Purse w/leather interior, 9"x5"x1"	$65.00
		(Both gifts bestowed on the occasion of Prime Minister Nakasone's visit, January 1983.)	

III Reimbursements—*List each source totaling $250 or more in value*

S	Source (Name and Address)	Brief Description	Value
	None		

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only	Page Number	Schedule
CLARK, WILLIAM P.	Date of Filing (Month, Day, Year)	7	D

LIABILITIES

Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term	Category of Amount or Value ($10,001 to $15,000 / $15,001 to $50,000 / $50,001 to $100,000 / $100,001 to $250,000 / Over $250,000)
NONE		

POSITIONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Clark Land Co., Paso Robles, Ca	Family Corp.	President		Present

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE

This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
NONE	

RELATIONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo., Day, Yr.)
Vested interest in State of California Judge's Retirement System (pension not payable until age 63)	Self and State of California	March 23 81

AFFIDAVIT

District of Columbia) ss

, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Subscribe and sworn before me this 19th day of October , 1983

Tammie L. Newman
Notary Public

My Commission Expires:
March 26, 1985.

U.S. GOVERNMENT PRINTING OFFICE

29-035 O—84——30

APPENDIX II

Responses to Additional Questions

November 7, 1983

Dear Mr. Chairman:

With respect to my nomination as Secretary of the Department of the Interior, I submit herewith my responses to "Questions Submitted to the Record" by members of the Committee on Energy and Natural Resources and by other Senators.

Sincerely,

William P. Clark

Enclosure:

As stated.

The Honorable James A. McClure
Chairman, Energy and Natural
Resources Committee
United States Senate
Washington, D. C. 20510

ADDITIONAL QUESTIONS SUBMITTED FOR RECORD CONCERNING THE PROPOSED NOMINATION OF WILLIAM CLARK

Questions 1-3	Senator Chafee
Questions 4-19	Senator Evans
Questions 20-27	Senator Wallop
Questions 28-30	Senator Weicker
Questions 31-32	Senator Bumpers
Questions 33-36	Senator Dixon
Questions 37-54	Senator Bumpers
Questions 55-65	Senator Johnston
Questions 66-70	Senator Baucus, Senator DeConcini, Senator Hart
Questions 71-78	Senator DeConcini
Questions 79-86	Senator Johnston
Questions 87-90	Senator Hatfield
Questions 91-93	Senator Matsunaga
Questions 94-96	Senator Tsongas
Questions 97-115	Senator Ford
Questions 116-123	Senator Bradley
Questions 124-153	Senator Tsongas
Questions 154-159	Senator Metzenbaum
Questions 160-162	Senator Weicker
Questions 163-200	Senator Metzenbaum

Q1. In 1982, Congress reauthorized the Endangered Species Act which included amendments to force the listing of new species. Even though the law requires stepped-up listing, the process is being subjected to delays by OMB. Will you resist interference by OMB and support an aggressive program to list species?

A1. It is my understanding that since the passage of the 1982 amendments, the Fish and Wildlife Service has pursued an aggressive program to list species, as required by law. I can assure you that I would continue to support the Fish and Wildlife Service in this effort and most certainly intend to comply with the new requirements of the Endangered Species Act.

As far as delays by Office of Management and Budget (OMB) are concerned, I am told that the Fish and Wildlife Service is working closely with OMB to try to work out a process whereby delays can be avoided in the future. I would certainly support such an effort.

Q2. You have indicated that you are seeking to reach out-of-court agreements on lawsuits. Would you be willing to review the St. Matthew Island land exchange to see if such an agreement can be reached? Alaska's national parks, refuges and wilderness belong to all Americans, not just Alaskans or development interests. How do you plan to better manage those resources for the benefit of all?

A2. It is my understanding that the land exchange involving a small part of St. Matthew Island has been fully consummated. Over 14,000 acres of native lands have already been added to the Yukon Delta and Kenai Wildlife Refuges. The three native corporations currently own the 4,100 acres on St. Matthew. I understand that the natives have met with the plaintiffs and I would be prepared to review any settlement options on behalf of the Department.

The Department's responsibilities for managing Alaska lands are carefully prescribed by the Alaska Statehood Act, the Alaska Native Claims Settlement Act, and the Alaska Lands Act. I am committed to precise implementation of these statutes and will pay particular attention to Congressional intent. Such action will ensure appropriate management of the resources for the benefit of all citizens.

Q3. Do you feel that our national parks and refuges are being threatened by internal and external activities? How would you go about eliminating these threats? When President Reagan signed the barrier island bill, which cut off Federal funding on undeveloped coastal beaches and islands, he suggested applying the funding prohibition approach to other environmental concerns. Do you feel such an approach could be applied to areas within or adjacent to the parks and refuges if the funding of such Federal projects would threaten park resources?

A3. There are activities, both internal and external, which could threaten the values of both parks and refuges. I assure you that I will do everything I can to monitor these activities and to manage both the National Park Service and the Fish and Wildlife Service so that threats are appropriately addressed.

If confirmed, I will be glad to work with the Congress and the various Federal agencies to determine whether the coastal barrier approach is feasible with respect to parks and refuges.

Q4. Secretary Watt proposed oil and gas leasing in national wilderness areas. In the Fiscal Year 1984 Interior Department appropriations bill, Congress passed a moratorium on leasing in all wilderness areas. Will you support this moratorium? Will you resist oil, gas, mineral or timber extraction leases in proposed or designated wilderness study areas until Congress determines their status?

A4. The administrative prohibition that is in effect is in agreement with the prohibition included in the House and Senate-passed Interior appropriation bill. I will, of course, follow the law in managing wilderness and wilderness study areas. I will not permit leasing in wilderness areas. With regard to wilderness study areas, it is the Administration's policy that leasing be prohibited until such time as the area is determined to be non-suitable for wilderness.

Q5. Will you honor the public policy established under President Eisenhower that has protected national wildlife refuges from mineral development? Specifically, will you reverse Secretary Watt's recent decision to open up more than one million acres of wildlife refuge in the continental United States to oil and gas leasing?

A5. It is my understanding that refuges withdrawn from the public domain and refuge wilderness areas are closed to oil and gas leasing. On other lands, Federal leasing is only allowed after a determination by the Fish and Wildlife Service, on a case-by-case basis, that such activity would be compatible with refuge purposes. If confirmed, I will review this important resource issue.

Q6. In your letter of October 31, 1983, to Senator McClure, you state that you support receiving fair market value for private use of public resources. How do you propose to establish sound national coal leasing policy which insures that taxpayers receive fair market value for coal leases, and which also insures that environmental values are not compromised?

A6. I would reserve making any changes until I have a chance to review and consider the findings of the Linowes Commission and OTA. Such findings as are appropriate will be implemented.

Q7. In your letter of October 31, 1983, to Senator McClure, you state that you support close cooperation with State and local governments, and local citizens. In making decisions on off-shore oil and gas leases, will you consult with affected coastal States and coordinate with their coastal zone management plans?

A7. My commitment to close cooperation with State and local governments will be reflected in my actions on the offshore oil and gas program. In addition to my personal commitment, laws governing the conduct of the offshore program mandate a strong State role. I intend to comply fully with these laws.

Q8. The Senate Energy and Natural Resources Committee has on its agenda two bills to amend the Geothermal Steam Act. One of the most controversial aspects of geothermal steam development is leasing and development on Federal lands in proximity to the boundaries of national parks and monuments containing thermal features. What steps would you take to protect geothermal features of national significance located within our national parks and monuments?

A8. I am aware of the issue and the importance of such national treasures as "Old Faithful" in Yellowstone and would not allow leasing if it would adversely impact the geothermal features of Yellowstone. With respect to other sensitive areas, decisions on whether to lease would only be made after carefully considering the facts on a case-by-case basis.

Q9. By passing the Land and Water Conservation Act, Congress envisioned taking revenues from finite, extractive resources (mineral leasing) and pledging those funds to the accquisition or protection of environmentally sensitive areas. Are you supportive of this concept? Or would you place a moratorium on resource acquisition, with a view that revenue from extractive resources should be used to fund other Federal spending?

A9. Congress has decided that some funds generated by resource development activities are earmarked for conservation purposes. I am supportive of this concept.

Q10. More than sixty national parks, refuges, and national recreation and preservation areas have been authorized by Congress, but not acquired by the Interior Department. Will you affirmatively undertake an acquisition program to utilize funds authorized by Congress?

A10. As a general matter I would support policies for acquiring additional lands that are appropriate for inclusion in the Federal estate. As I suggested in my confirmation hearing, my review of the upcoming budget may lead to a determination of a need for additional acquisition funds.

Q11. Previous policies have constituted a "near moratorium" on adding new units to our national park system until deferred maintenance is completed and other costs paid for. Do you intend to review or revise this policy?

A11. Yes, as explained in the previous answer, I will review this policy on a continuing basis to determine if revisions are necessary.

Q12. In 1983, President Reagan initiated an "asset management" program to review all real property holdings of the Federal Government and to expedite the disposal of "surplus" properties. Federal lands in several municipal watersheds (surrounding metropolitan areas) were designated to be sold under the program. Will watershed areas be excluded from future sales to assure adequate municipal water supply and water quality. Will you afford municipalities the opportunity to acquire such watersheds?

A12. I can appreciate your concerns regarding municipal watersheds. The criteria for disposing of excess public lands is contained in the Federal Land Policy and Management Act. I believe it refers to scattered, isolated tracts; tracts that were acquired and no longer needed; or tracts needed for the purposes of community expansion. It's unlikely municipal watersheds would meet those criteria and if they did, I would not dispose of them unless consultation had occurred with the affected municipalities.

Q13. The Administration requested no funds in Fiscal Year 1984 for historic preservation. These are the matching funds which the States have used to carry out Federally-mandated activities such as structural certification for Federal tax incentives and review for nomination to the National Historic Register. Will you seek supplemental historic preservation funds in Fiscal Year 1984? Will you request needed funding in Fiscal Year 1985?

A13. I am unaware of the proposals in the FY '85 budget for historic preservation. Consideration of requests for historic preservation in the 1984 Supplemental would be subject to the criteria for all such supplementals which as I understand it would require that it fall generally in an unforeseen or unanticipated category. I would pledge myself to carefully review this matter.

Q14. The Administration requested no funds in Fiscal Year 1984 for cooperative wildlife and fisheries research. Cooperative fishery units in Washington, Oregon, Idaho and California are involved in 38 projects directed at solving various anadromous fisheries problems. Cooperative fishery units are also conducting approximately 50 percent of the research projects on Atlantic salmon. Will you seek supplemental cooperative wildlife and fisheries research funds in Fiscal Year 1984? Will you continue the policy of not requesting cooperative wildlife and fisheries research funds? If so, how will you offset the adverse impacts on Washington's fishery?

A14. As in the previous question, I would be unable to prejudge needs for cooperative wildlife and fisheries research units in the 1984 Supplemental at this time.

Although I am unable to comment on the FY 1985 budget at this time, I will carefully review this issue area.

Q15. When the Federal Government proceeded with the development of the Columbia River Power System dams, it pledged to fund fish hatcheries necessary to offset the adverse impact of the dams on anadromous fish runs in the Pacific Northwest. Secretary Watt proposed to reduce funding for fish hatcheries in the Pacific Northwest, thereby reneging on the Federal Government's pledge to protect the region's anadromous fishery resource. Will you honor the Federal commitment to fund Columbia River fish hatcheries?

A15. I have been told that the Department of the Interior has not recommended reducing funding for the Columbia River hatcheries. Indeed, I am told that the Department has always recognized and sought continued funding to mitigate damages to anadromous fishery sources in that area and to meet its responsibilities where Federal projects have caused problems for the fishery.

Q16. Secretary Watt made "near promises" of more water project funding in Western States. The Office of Management and Budget limited project funding and insisted that State and local beneficiaries pay a larger share of construction costs. In the Fiscal Year 1984 Energy and Water Appropriations bill, Congress rejected all the Administration's proposed new starts and asserted its own prerogative to determine water spending priorities. On October 6, 1983, the House of Representatives passed a supplemental appropriations bill funding 43 water projects on its own choosing. Will you work with Congress to develop a compromise package of water projects? Will you resist efforts to shift water project costs to the States? How do you view the orderly development of river basin systems such as the proposed Yakima River Basin project in Washington State? Can water flow regulation and storage facilities provide for multiple needs: fishing, irrigation and incidental small scale hydroelectric power?

A16. The Administration favors water development and will continue to work with the Congress to identify and recommend the best projects to Congress for funding to meet our most immediate and near future water needs. The latest thinking of this Administration on the subject of water project cost-sharing was expressed in a letter from the Director of the Office of Management and Budget, David A. Stockman, to Senator Robert Stafford, Chairman of the Committee on Environment and Public Works, dated August 5, 1983. I have enclosed a copy of Mr. Stockman's letter for your consideration.

As stated at my hearing it is my feeling at this time that the subject of water project cost-sharing should be addressed on a case-by-case basis taking into account the previous commitments of the Federal Government and recognizing the ability of beneficiaries to pay.

I am unfamiliar with the details of the Yakima project, but will review it upon my confirmation. I will also review water flow regulation and storage facilities as they relate to other uses.

Q17. Secretary Watt characterized Indian reservations as "disastrous experiments in socialism." Will you oppose proposals which call for termination of Indian reservations? Will you give our Native Americans the personal choice to leave or remain on the reservation, with a commitment that, if they remain, the Federal Government will honor its trust responsibilities to provide adequate health, education, and other opportunities which are afforded to all other Americans?

A17. As I stated in my testimony, the President's Policy Statement, a copy of which is attached, clearly delineates my charge for dealing with American Indians and Alaska natives. I will work with the tribes to implement that policy.

Q18. Secretary Watt promulgated administrative regulations which liberalized economic development activities in the Alaskan D-2 wilderness area. Will you rescind these regulations? If not, will you expand development activities in the D-2 area?

A18. The Alaska Lands Act of 1980 created over 100 million acres of new parks, preserves, refuges, and wilderness areas in Alaska. It is a detailed statute that prescribes the types of activities that may and may not occur within protected areas. If confirmed, I will do my utmost to adhere to the law and pay special attention to the intent of Congress in exercising what discretion the Secretary has under the law. If confirmed, I will review the Alaskan wilderness area regulations to determine if any changes are necessary.

Q19. The Senate Energy and Natural Resources Committee recently reported to the Senate a bill which would give the Bureau of Land Management authority to sell excess wild horses and burros from the nation's range lands. The Committee's intent, however, was for the Secretary of the Interior to vigorously pursue alternatives prior to exercising sale authority. If the bill passes both houses of Congress, what steps will you take to promote the Bureau's adoption program prior to exercising sale authority?

A19. I would follow the Congressional intent as provided in the law. This is a real problem and one in which we need legislative help and I will work with the Committee to find a reasonable solution. I would intend to pursue a rigorous adoption program in order to assure that direct sales would be greatly minimized. It should be noted that current law requires the Secretary to destroy all unadoptable horses. This is a result which I don't think any of us want.

Q20. Do you support the active role of Western States in the inspection and auditing of mineral production from Federal lands?

A20. It is my understanding that the Department's commitment is reflected in the eight successful cooperative audit efforts and the three inspection efforts now underway. While I will be reviewing all Departmental policies, it is my understanding that this one has substantial support for continuation.

Q21. Will you actively encourage delegations of authority to Western states for the performance of auditing and inspection functions, as provided for under the Federal Oil and Gas Royalty Management Act of 1982?

A21. I am committed to full enforcement of the law. The provisions of Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982 express this Administration's commitment to cooperative activities with western States involved in joint lease management functions.

Q22. Will you continue/increase the Department of the Interior's commitment to the current joint audit program in the following areas:

(a) Funding--Will you request appropriations to fund cooperative agreements on delegations of authority as authorized by Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982?

(b) Access to audit data--Will you allow the States access to any data needed to function under either cooperative agreements, or delegations of authority?

(c) Permanence--Will you support a permanent place in the Minerals Management Service organization for the joint audit program? Will this part of the organization have access to top management of the Department of the Interior?

(d) Sounding board--Would you support some type of sounding board to resolve disagreements between the Minerals Management Service and the joint audit States?

A22. (a) As the upcoming budget undergoes the review process, we will examine this and other subjects. As I have said, OMB has assured me that I will have the opportunity to review priorities.

(b) It is my understanding that the provisions of the Federal Oil and Gas Royalty Management Act of 1982 are explicit on the responsibilities of the Government to provide data to States engaged in cooperative efforts under the provisions of Sections 202, 203, and 205. I will comply with the provisions of the statute.

(c) It is the current policy of the Department to encourage and enhance participation by States in the joint cooperative audit and inspection process. I am told the record reflects that State representatives have always had access to the highest levels of management in the Department, including the

Secretary, to mutually discuss all aspects of the cooperative lease management process.

(d) My management team and I will be accessible and available to States in order to fully meet President Reagan's Good Neighbor policy.

Q23. Would you support expansion of the joint audit program to include coal and other minerals?

A23. I have been advised that several joint coal audits are already underway, including one with the State of Wyoming. However, the provisions of Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982 limit audit activities under these Sections to oil and gas.

Q24. Do you agree with the Minerals Management Service's proposed guidelines for the valuation of oil and natural gas?

A24. I am unfamiliar with the specifics of these proposed regulations. As comments on these regulations are reviewed and final regulations promulgated, I will carefully review the policies involved in this proposal.

Q25. Would you allow the Minerals Management Service to enforce the proposed guidelines retrospectively?

A25. I am unfamiliar with the specifics of these proposed regulations. As comments on these regulations are reviewed and final regulations promulgated, I will carefully review the policies involved in this proposal.

Q26. Will you support continued participation by the States in the on-going review of the distribution of royalty monies to the States, and the computation and withholding of Windfall Profits Taxes?

A26. I have been advised that the Office of Inspector General is conducting audits of the Minerals Management Service distribution of royalties to the States, a process in which States are participating. I will carefully consider the view of the States in the course of my review of Departmental policies.

Q27. Will you support the continuation of the joint inspection programs between the Bureau of Land Management and the States? Would you seek funding for the States participating in the program?

A27. The joint inspection program is an important part of the Department's Good Neighbor efforts with States in which mineral production takes place. To the extent that it can be an effective program, I will support it.

The aspect of funding will be reviewed in light of the upcoming budget process.

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Q28. Mr. Clark, do you believe that the State Department is better equipped than the Interior Department to deal with the myriad of problems, both social and procedural, which the developing governments in the territories are likely to encounter post-trusteeship?

A28. I realize that the question of which agency administers the Compact of Free Association is an important one for the future of the United States in the region and for the Micronesian people. I am also aware that there are strong Congressional views on the matter. I have not yet developed my own views on the question. I hope to explore this question further with concerned agencies and with Members of the House and the Senate, before I give you a final answer to this question.

Q29. Should this transfer of jurisdiction occur, will you be able to justify maintaining the position of Assistant Secretary for Territorial and International Affairs to oversee the territories that will remain under the Interior Department's purview?

A29. As long as the jurisdiction remains in the Department, I feel the position of Assistant Secretary for Territorial and International Affairs should be maintained as we continue to develop the political, social and economic future of the United States territories.

Q30. When do you anticipate the Administration will submit the name of its nominee for the position of Assistant Secretary of Territorial and International Affairs to the Congress for its consideration?

A30. Since the announcement of my nomination, I have stated that I will not involve myself in personnel matters until, when and if, confirmed.

Q31. A Federal Judge found that Interior was "flaunting the law" by failing to collect over $44 million in fines due the Federal government and failing to take action against over 1700 mines that did not stop illegal mining activity after being ordered to do so. This case is generally referred to as the "megabucks case". The Federal Judge has ordered OSM to take action to correct these enforcement breakdowns. However despite assurances by Interior that it will remedy the breakdowns in enforcement, the agency has appealed the Judge's decision to the Court of Appeals. If confirmed, will you agree to withdraw the agency's appeal of the megabucks decision?

A31. I will review this matter, if confirmed.

Q32. If no, will you assure us that regardless of how the Court of Appeals rules on the "technical issues" in the megabucks case, you will seek to collect the $44 million in uncollected fines and take action against the 1700 uncorrected mine violations?

A32. The Department will continue to pursue the collection of uncollected fines, and will continue to seek collection of unabated violations independent of the litigation.

Q33. What kind of policy do you intend to follow to avoid a repetition of the bargain basement prices offered to industry under the Department's coal leasing program?

A33. The law requires the Department receive a fair market value for leasing coal resources. The efficacy of current procedures for achieving this requirement is currently under review by the Commission on Fair Market Value Policy for Federal Coal Leasing. Only after those recommendations and the Department's analysis and review can I state what changes in policy might be appropriate. I would also expect to consult with interested Members of the House and the Senate.

Q34. There is concern as to the Department's commitment to farmland reclamation under proposed changes recommended earlier. What will be your approach to reclamation?

A34. The Surface Mining Act contains provisions which provide special protection for prime farmlands. I will be bound by those provisions and guided by the legislative history.

Q35. What is the status of the proposal made some months ago that would allow our States to decide whether to grant mining rights to industry in national parks, national forests, wilderness areas, wildlife refuges and other protected lands? Do you think it's proper to give a State the right to determine unilaterally what mining activity is to take place on Federal land?

A35. I will subject this issue to a careful review if confirmed.

Q 36. Under the Surface Mining Act, do you believe that prime farmland should receive special protection?

A36. The Surface Mining Act contains provisions which provide special protection for prime farmlands. I will be bound by those provisions and guided by the legislative history.

Q37. A Federal judge found that Interior was "flaunting the law" by failing to collect over $44 million in fines due to the Federal Government and failing to take action against over 1700 mines that did not stop illegal mining activity after being ordered to do so. This case is generally referred to as the "megabucks case." The Federal judge has ordered the Office of Surface Mining (OSM) to take action to correct these enforcement breakdowns. However, despite assurances by Interior that it will remedy the breakdowns in enforcement, the agency has appealed the Judge's decision to the Court of Appeals. If confirmed, will you agree to withdraw the agency's appeal of the megabucks decision?

A37. I will review this matter, if confirmed.

Q38. If no, will you assure us that regardless of how the Court of Appeals rules on the "technical issues" in the megabucks case, you will seek to collect the $44 million in uncollected fines and take action against the 1700 uncorrected mine violations?

A38. The Department will continue to pursue the collection of uncollected fines, and will continue to seek collection of unabated violations independent of the litigation.

Q39. Are you familiar with the General Accounting Office's suggestion that the Department may want to consider leasing maintenance tracts through negotiation with industry rather than through competitive bidding as currently provided? If yes, what do you think of this recommendation?

A39. I am not familiar with the GAO suggestion. However, I understand that the Coal Commission on Fair Market Value is reviewing the leasing of maintenance and bypass tracts. I will consider the recommendations of the Commission in proposing any changes in the coal leasing policy.

Q40. Secretary Watt's coal leasing program has been characterized by confrontation with local citizens, State Governments, and environmental organizations. If you agree that this confrontational approach is not the best way to create support for the government's leasing policies, then what steps do you think should be taken to resolve this conflict?

A40. I will seek a better public understanding of the process. I will also seek regular consultations and timely opportunities for meaningful involvement by the public as well as State and local governments.

Q41. The Watt program has been criticized for failing to do an adequate analysis of all the tracts selected for leasing, analysis which might lead to the designation of tracts as unsuitable for mining or which would make tracts subject to extensive mitigation efforts. Would you favor returning to procedures which established first whether a tract is suitable for mining prior to offering it for lease? And if so, what procedures would you follow to assure the suitability of a tract for leasing?

A41. It is my understanding that the coal leasing program currently provides for the process and procedures to determine the suitability of potential coal tracts prior to leasing. I am also aware that the process has been subject to criticism. I will review this process upon my confirmation.

Q42. The regulations promulgated by Secretary Watt have limited once existing protections for those surface owners who do not consent to having their land strip mined. Although surface owners still have the right to refuse consent even if their land is offered for lease, pressure on them to give consent has been increased by a number of regulatory changes. A refusal to give surface owner consent no longer is valid for the life of the applicable land use plan. It is valid only for the particular lease sale and must be renewed each time there is an offering. Second, the burden of proof for qualification as a surface owners has shifted from the government to the landowners. Third, surface owners who do not give consent now find their land ranked, in terms of likelihood of tract selection, equally with those who give consent rather than receiving a lower ranking as they previously did.

The result of these changes is to increase pressure on the surface owners to consent to having their land mined. This flies directly in the face of Congressional intent when it enacted the provision of SMCRA giving protection to surface owners. These changes work to the advantage of the coal companies over the land owners in trying to obtain surface owner consent. Do you agree that the new surface owner consent regulations limit the rights of individual surface owners? If yes, doesn't this strike you as odd that an administration which so values property rights should enact regulations which have the effect of limiting those rights?

A42. I am unfamiliar with the detailed regulations which govern the suface owner consent requirements of the Surface Mining and Reclamation Act. However, I will review the regulations that control these provisions to assure that all legal rights are protected.

Q43. How do you propose to balance the rights of corporations who want to have access to the underlying coal with those who own the land?

A43. Congress mandated that qualified surface land owners must give their consent to mine Federal coal underlying their land. This is a statutory requirement of the Surface Coal Mining Reclamation Act. Without this consent the Federal Government is precluded from leasing the subsurface coal. I will follow that mandate.

Q44. Secretary Watt's coal leasing program has been surrounded by controversy. The two major sales administered under his direction, the Powder River sale and the Fort Union sale, have been judged by many to be economic failures. Current department plans call for the sale of almost 11 billion tons of coal in four major sales prior to the end of FY '84.

The Federal coal leasing program under Secretary Watt has moved from controversy to fiasco. The scandal of the Powder River sale in 1982 (GAO: $100 million loss) was followed by the economic failure of the Fort Union sale, held in defiance of a House Interior Committee emergency withdrawal resolution. In the Fort Union sale, over 170 million tons of coal were sold for less than 8/10ths of a cent per ton, and the total Federal bonus revenues did not even cover the administrative cost of the sale itself. Both sales are currently mired in court proceedings. Acting on the FY '83 Supplemental Appropriation, Congress set up a commission to study the economic problems posed by Watt's coal lease sales.

As part of the FY '84 Interior Appropriations, Congress deferred any more major sales until after the Commission, chaired by David Linowes, reports. The two major sales administered by Secretary Watt, the Powder River sale and the Fort Union sale, have been judged by many to be economic failures. Despite the glut in the national coal market, current Interior Department plans call for the sale of almost 11 billion tons of coals in the five months following the end of the deferral imposed by Congress. In light of these facts, do you intend to proceed with these coal sales as presently planned?

A44. All coal sales except those expressly authorized by Congress are currently on hold because of the Congressional mandate to await the report of the "Commission on Fair Market Value Policy for Federal Coal Leasing." After the report has been reviewed, future coal sales procedures, levels, and schedules will be determined.

Q45. In a speech before the National Energy Resources Organization, delivered shortly after the resignation of Secretary Watt, BLM Director Robert F. Burford had this to say about the Administration's increasingly controversial coal leasing program: "Our coal program is a sound, well designed program which considers economics, the environment, the public, the economy, consumer interest, and national security. One would be hard-pressed to challenge the integrity of such a program." Do you agree with that statement?

A45. The coal leasing program is high on the list of those programs that will be reviewed under the mandate given to me by President Reagan.

Q46. Irrespective of the results of any independent inquiries currently being conducted, what is your personal view of the status of the administration's coal leasing effort?

A46. Again, the coal leasing program is high on the list of those programs that will be reviewed under the mandate given to me by President Reagan. Coal is an abundant resource which can make a major contribution to domestic energy production. Our national security is, in part, dependent upon prudent development of this and other Federal energy resources.

Q47. Do you view the Powder River and Fort Union sales as successes, or as failures?

A47. It is my understanding that the Commission on Fair Market Value is reviewing both the Powder River and Fort Union sales as to the process and policies that control those sales. I am withholding any judgments on those sales until I have reviewed the Commission's findings.

Q48. Please explain your view.

A48. See preceding answer.

Q49. Under Secretary Watt, leasing levels have been set according to "industry's demand for reserves." Previously such levels were set and adjusted according to actual production based on regional demand for coal. Is it your view that leasing levels for coal should be based, solely or primarily, on industry's "demand for reserves?"

A49. Leasing levels for coal should be based upon a host of relevent factors. These include protection of environmental and cultural values, leases already in existence, military requirements, the potential socio-economic impacts of more leasing, and expectations with respect to demand for both production and reserves. The Regional Coal Teams, I understand, consider all of these and other factors in their deliberations. It is also my understanding that the Linowes Commission may examine this issue.

Q50. Is there some threshold where you would agree that enough Federal coal has been leased?

A50. There may be a limiting threshold but its level is speculative.

Q51. At what level is that threshold?

A51. Any threshold is dynamic. For example, supply and demand situations change, or can change, rather dramatically with domestic and world events. Such an event was in 1973, with the shock of OPEC price setting and the resultant impacts on the world's energy economy.

Q52. In a memorandum to Director Burford, dated April 5, 1983, Secretary Watt stated: "It is my continuing policy to offer as much coal as is environmentally feasible and consented to by involved surface owners and to allow the market to determine which tracts are desired for leasing." Do you agree with this statement?

A52. It is my continuing mandate to review all policy in the Department of the Interior. Included in this review will be the recommendations of the Commission on Fair Market Value for coal leasing which addresses this specific question.

Q53. In your view, what do the words "environmentally feasible" mean?

A53. The Office of Technology Assessment has been directed by the Congress to study the environmental consequences of coal leasing and report its findings to Congress. I am hopeful the report will assist in assuring that future leasing will occur in an environmentally acceptable manner.

Q54. What role should environmental planning play in the coal leasing process?

A54. Environmental planning plays a very important role in the current coal leasing process. To ensure that this level of planning is appropriate, the Congress directed the Office of Technology Assessment to review this process and furnish a report to be completed at the same time as the report from the Commission on Fair Market Value. I will consider the findings of both studies in evaluating the Departmental coal program.

Q55. Surface Mining Control and Reclamation Act of 1977 prohibits the strip mining of coal in various protected Federal areas, including national parks, forests, and wildlife refuges. The only exception is for individuals who held valid existing rights (VER) on the date the law was enacted, August 3, 1977. Since the statute does not define VER, it must be defined by regulation. Cecil Andrus' regulations granted VER to those who had obtained all their permits to mine as of August 3, 1977 (the so-called "all permits test"). A Federal judge held that this all permits test was overly broad and sent the regulations back to the agency. The judge suggested a different definition of VER: VER should be granted where a miner had made a good faith effort to obtain all necesary permits to mine as of August 3, 1977 (the so-called "good faith all permits test"). Under the test suggested by the judge, very little, if any, protected park land would be opened to mining.

Instead of adopting the VER test suggested by the judge, the Interior Department has issued a rule that requires state strip mining authorities to determine whether a constitutional taking would occur if VER were not granted. This test, which was not proposed in the Federal Register for public comment, would broaden the rights of miners to mine in national parks, forests, refuges and other protected areas. The National Park Service has stated that unless the good faith all permits tests is used, mining might take place on up to 3.7 million acres in 55 Park Service units. One million acres of national forests and 73,000 acres of wildlife refuges might also be threatened. In order to stop this mining, the Federal Government would be required to pay billions in dollars to condemn or purchase the mineral rights. If confirmed, will you reconsider the "constitutional taking" test for VER and adopt a test more like the one suggested by the Federal court--the "good faith all permits" test?

A55. I am aware this is a sensitive issue. I will carefully review it, if confirmed.

Q56. If not, how will the Department deal with the criticisms of the "constitutional taking" VER test raised by the State of Kentucky: (1) that the State cannot under the State Consitution authorize an administrative agency to make decisions concerning property rights; and (2) the State will have an incentive to grant VER in almost every case to avoid possible damage suits against the State?

A56. These are important elements of any Departmental decisions on the matter of VER and these will be carefully reviewed.

Q57. The historic preservation program within the Department of the Interior is not typical of the traditional custodial responsibility of the Secretary. It involves substantial support of state, local and private sector initiatives to identify and protect historic buildings, neighborhoods, and commerical districts. How do you view the historic preservation program, and how do you see it fitting into your responsibilities as Secretary?

A57. As I said at my confirmation hearing, I strongly support historic preservation. I believe it is an important responsibility of the Secretary.

Q58. The Department of the Interior requested no matching grants from the Historic Preservation Fund for the States or the National Trust for Historic Preservation in the past two fiscal years. Congress, however, has consistently reaffirmed its support with an appropriation from the Fund of $26 million in FY 1983 and $26.5 million in FY 1984. Despite obvious Congressional support, will the Department again request no funds for the State Historic Preservation Offices and the National Trust for Historic Preservation in FY 1985?

A58. This will be reviewed carefully during preparation of the FY '85 budget.

Q59. If no request will be made, why not?

A59. This will be reviewed carefully during preparation of the FY '85 budget.

Q60. If there is no request, what kind of support would you be prepared to give within the Administration to reverse this decision and provide adequate funding to the state preservation programs and the National Trust for Historic Preservation?

A60. Again, this will be reviewed carefully during preparation of the FY '85 budget.

Q61. The Advisory Council on Historic Preservation is currently under attack by various Federal agencies seeking to limit its role in the mediation of preservation conflicts. Do you believe in the continued independent role of the Advisory Council in mediation of preservation conflicts between Federal agencies and local and private interests?

A61. I have been advised that the National Historic Preservation Act does not specifically authorize a role in mediation; however, the Council's comments may be helpful in such a process. I will review this matter, upon my confirmation.

Q62. At present, private companies operate visitor facilities (hotels, restaurants, gift shops, etc.) in almost every major national park. Total sales by concessioners in national parks last year were almost $250 million.

On March 9, 1981, in a speech to the Conference of National Park Concessioners, Secretary Watt said "... you folks are going to play a tremendously important role and a growing role in the administration of our national parks and we are going to reach out to involve you in some areas that you haven't been asked to be involved in before. I shouldn't say that. We are going to ask you to be involved in areas that you haven't been allowed to be involved in before..." What kind of a role, if any, should park concessioners play in the operation and management of national parks?

A62. As I understand the situation, concessioners operate under specific conditions and controls which are mandated by an Act of Congress.

Contracts and permits based upon this Congressional authority require that essential services are provided while the natural and cultural resources are protected.

Q63. Do you believe that current law regarding concessioner activities in national parks is sufficient to protect the public interest?

A63. I understand this law provides controls and objectives that establish contract conditions and evaluation methods sufficient to protect long-term interests of the public and the resources.

Q67. Despite Congressional authorization of expenditures, Secretary Watt consistently blocked acquisition of many parcels of land necessary to protect important values within our National Forests and Parks. Will Mr. Clark continue to block acquisition of critically important parcels within existing National Parks and growth of the National Park System?

A67. As a general matter I would support policies for acquiring additional lands that are appropriate for inclusion in the Federal estate. As I suggested in my confirmation hearing, my review of the upcoming budget may lead to a determination of a need for additional acquisition funds.

Q68. Secretary Watt advocated oil and gas leasing and development within the National Wildlife Refuges, safe harbors for many of the nation's endangered and threatened wildlife. Will Mr. Clark continue to open Wildlife Refuges to development, sacrificing the very wildlife the refuges were established to protect?

A68. It is my understanding that refuges withdrawn from the public domain and refuge wilderness areas are closed to oil and gas leasing. On other lands, as I mentioned in my testimony, Federal leasing is allowed only after a case-by-case determination by the Fish and Wildlife Service that such activity would be compatible with refuge purposes. If confirmed, I will review this important resource issue.

Q64. A 1980 GAO report, the report often cited by Secretary Watt as the basis for his Park Rehabilitation and Improvement Program (PRIP), indicated that park concessioners are responsible for a number of the health and safety problems inside national parks. What actions will you take as Secretary to help ensure that such problems are cleaned up and do not recur in other parks?

A64. I will review the program that has been completed to date and I will analyze the NPS priority setting system. I will continue the policy of correcting health and safety problems through the restoration and rehabilitation program, cyclic maintenance programs and use of the visitor facility fund which allows use of the concessioner franchise fees.

Q65. In 1979, the Congress enacted legislation prohibiting increases in entrance fees at units of the National Park System. This was in response to a Carter Administration proposal to significantly increase these fees and use the funds for park maintenace projects.

Secretary Watt transmitted legislation to the Congress last year to repeal this prohibition so that entrance fees could be increased. How do you feel about increasing national park entrance fees?

A65. I intend to address that subject when reviewing the Department's FY 1985 budget proposal to the President.

Q66. Despite the present energy glut, Secretary Watt accelerated the leasing of many of our national energy resources, forcing the government to collect bargain basement revenue on valuable coal, oil and oil shale leases. Will Mr. Clark continue to pursue a policy of virtually giving away many publicly owned resources?

A66. The Federal Government is required to receive fair market value for its resources. As a general rule, I would not support a policy which gives away publicly owned resources.

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Q69. Secretary Watt contributed little more than confusion in defining the Federal role in future water policy for the West. Will Mr. Clark expand the scope of discussion to address more than cost sharing and work to establish consistent Federal policy on Western water development and use?

A69. Future water policy in the West must be jointly determined by the Federal and non-Federal sectors. Leadership should come from the States in that they are primarily responsible for water resources adjudication and management. I look forward to addressing the issue of cost-sharing and all other aspects of Federal water resource development policy. I also look forward to working with the Congress in planning for the development and enhancement of this Nation's water resources.

Q70. Secretary Watt launched an unprecedented attack on the nation's wilderness areas, working to open the areas to development, transferring out of Federal ownership wilderness lands on St. Matthew Island, Alaska, disregarding studies of and releasing Wilderness Study Areas in many states and shutting off additions to the Wilderness System. Will Mr. Clark continue this effort to develop pristine areas set aside by Congress for wilderness and wilderness study.

A70. As I understand, Federal law is rather specific concerning the responsibility of the Executive Branch in managing and making recommendations for additions to the National Wilderness System. I intend to discharge my responsibilities under the law.

Q71. If it is possible, would you please summarize your attitudes and opinions in regard to Western reclamation projects and the Central Arizona Project in particular? If possible, could you outline the steps you might take in assuring the present construction schedule and planned water delivery dates for the CAP?

A71. As stated in my testimony, I am aware of the concerns Western States have in the Federal Government's role in Western water projects. Because of the rapid development in the West, this issue is of major public interest. It will undoubtedly be one of the major issue areas I will have to address if confirmed.

In addition, I understand the Department's construction schedules for CAP have been developed and are adjusted as required to conform to annual funding levels provided by the Congress.

Q72. Could you provide some indication of how you see your role as Secretary in regard to the Federal Government's trust responsibilities and what the Department's policies and funding priorities might be?

A72. As I stated in my testimony, the President's Policy Statement, a copy of which is attached, clearly delineates my charge for dealing with American Indians and Alaska natives. I will work with the tribes to implement that policy.

Q73. What role do you see for the States in water resources planning and the planning of water resources development programs?

A73. In the planning of Federal water resource development projects, involvement of the States is an important and necessary aspect of the total planning process under existing laws. Principles and guidelines for water project planning and cost sharing demand greater involvement by States and other non-Federal sectors.

Q74. Would you support increased funding for water reseach and study programs and for state water research centers?

A74. Water research and study programs and the role of State water research centers are important to the solution of the difficult problems of water availability and water quality which face our Nation. I will review the Federal/State role in these programs.

Q75. Would you be prepared to support funding for the WPRS Safety of Dams Programs?

A75. I believe this important Bureau of Reclamation program should be continued and funded.

Q76. In the same vein, do you support funding for the Land and Water Conservation Fund and full funding for payments-in-lieu of taxes as administered by the Department?

A76. Yes, I support funding for the Land and Water Conservation Fund and for payments-in-lieu of taxes in accordance with applicable statutes.

Q77. What is your position on a possible transfer of ownership of Federal lands to State ownership? On the sale of excess Federal lands?

A77. The transfer of Federal lands owed to States as part of their original Statehood entitlements will continue to receive a high priority in this Administration. Completion of these long overdue entitlements is progressing at a rapid pace and these efforts will continue. Another program involving State transfers is the Department's recreation and public purpose transfers. This important program will also continue to be high priority as part of Interior's Good Neighbor program. Finally, land exchanges with State governments to improve management are also critically important and will continue to be emphasized. As for land sales, where certain parcels are identified through land use planning for sale and meet the legal criteria for sale, these may be offered as part of the total land program.

Q78. Do you have an established policy on State/Federal cost-sharing of water projects?

A78. The latest thinking of this Administration on the subject of water project cost-sharing was expressed in a letter from the Director of the Office of Management and Budget, David A. Stockman, to Senator Robert Stafford, Chairman of the Committee on Environment and Public Works, dated August 5, 1983. I have enclosed a copy of Mr. Stockman's letter for your consideration.

As stated in my testimony, it is my feeling that the subject of water project cost-sharing should be addressed on a case-by-case basis taking into account the previous commitments of the Federal Government and recognizing the ability of beneficiaries to pay.

Q79. Why do you want to be the Secretary of the Interior?

A79. If confirmed, it will indeed be a high honor to serve both the American people and the President as Secretary of the Interior.

Q80. What will be your first priority as Secretary of the Interior? What, in your view, is the most important responsibility the Secretary of the Interior has?

A80. As stated in my testimony, the President has asked me to conduct an indepth review of Department policies, personnel and process as well as issues raised at my confirmation hearing. The most important of my general responsibilities is to be a good steward of the nation's resources and of the public trust. This will be accomplished by following the law and assuring a proper balance among competing resources and values.

Q81. What, in your opinion, are your primary qualifications for the job of Secretary of the Interior?

A81. The Department of the Interior is a complex organization with differing missions, often in competition with one another. As a chief of staff for a governor, as a judgeand appellate justice, as a deputy secretary of a major federal department, and as a presidential policy advisor and coordinator, I have gained experiences in gathering information from many sources, responding to concerns, and in resolving competitions while keeping in focus goals of the Administration. I refer to the transcript of my oral testimony for a more detailed discussion of my relevant experiences.

Q82. Do you consider yourself to be a "Sagebrush Rebel?" What are your views on the so-called "Sagebrush Rebellion?"

A82. I do not use labels to categorize people. However, coming from an area where the Federal Government often is an absentee landlord, I am aware that many persons felt their concerns were not being heard in Washington.

One of the Administration's first initiatives was to make the Federal landlord a "Good Neighbor" by working with State and local governments and with private individuals. The Department will continue that spirit of cooperation with States and localities and will build partnerships that serve the public interest.

Q83. How would you define the term "environmentalist?" How about "conservationist?" Is there a difference?

A83. I have little confidence in applying labels, particularly to people. Whether one is an "environmentalist" or a "conservationist" is usually in the eye of the beholder.

Q84. Would you regard yourself as either a conservationist or an environmentalist? On what basis do you assert that?

A84. As I have stated, I do not apply labels to myself or to others.

Q85. Few can quarrel with the proposition that Jim Watt was a knowledgeable Secretary of the Interior. Do you think that you are as knowledgeable as he is about the Department of the Interior programs? How long do you think it will be before you get up to speed about the Department of the Interior programs? Why do you think that you will be any more successful than he was in advocating the same policies he advocated, given your lesser knowledge of the subject matter?

A85. If confirmed, I will come to the Department with different background, training and experience from any predecessor Secretary.

After a complete review, I intend to make changes on a continuing basis where and when I feel such changes are necessary to improve the particular program involved and to meet changes in the law.

Q86. Can you give us any example of what you would consider to be a situation where developer interests prevailed over preservationists or conservationists where, in your opinion, the developer interests should not have prevailed?

A86. I know of no standard for categorizing judgment as pro-developer on the one hand or as pro-preservationist or conservationist on the other. Further, I have no knowledge that the Department has made decisions based on such concepts, whatever the standard. For these reasons, I am unable to respond.

Q87. These four questions regard mineral leasing in the Gorda Ridge. In the letter dated September 9, 1983, Acting Deputy Assistant Secretary for Energy and Minerals Dare wrote to Governor Victor Atiyeh regarding polymetallic sulfide mineral leasing in the Gorda Ridge off the Oregon coast. Is the Department on schedule for completing its preliminary EIS and does the Department intend to publish the final EIS in February, 1984 as stated in the September 9, 1983 response to Governor Atiyeh?

A87. I have been advised that the Department now intends to issue a draft environmental impact statement (DEIS) in December 1983 and a final EIS in March 1984 concerning the Gorda Ridge offering for polymetallic sulfides.

Q88. Could you explain the rationale for presenting a formal lease offer in July, 1984 when, according to the September 9 letter, the Department is not willing to include mineral leasing in the environmental studies program?

A88. I have not been fully briefed on this issue. However, I will make it an important part of my Departmental review.

Q89. If Congress appropriated sufficient funds, would the Department consider including such mineral studies as part of the regular environmental studies effort?

A89. I have been advised that NOAA and USGS already have active research in the area. I will review the question to see if additional study efforts are needed.

Q90. In the FY '84 appropriations bill for the Department of Commerce, 2.0 million dollars has been included for basic research of polymetallic sulfide in the Gorda Ridge. Much of that Commerce (NOAA) research will be conducted at the Oregon State University, Marine Science Center in Newport, Oregon. Under what circumstance would the Department of the Interior consider undertaking a cooperative research effort with NOAA at the Newport Center relating to polymetallic sulfide in the Gorda Ridge? Would additional DOI funds for staff be necessary for such a cooperative effort?

A90. I understand that the Department of the Interior has worked closely with NOAA on its oil and gas environmental studies program. I am confident that such cooperation will also extend to the conduct of an environmental studies program on critical and strategic minerals, including polymetallic sulfides. The funding question will be reviewed in the upcoming budget process.

Q91. Mr. Clark, as you may know, the Department of the Interior plays a crucial role in ensuring the well-being and development of the U.S. territories in the Pacific and the Caribbean. In this Administration and in past years, the territories, especially those in the far-off Pacific, have received little personal attention from the Secretary of the Interior and have been a very low priority for the Department as a whole. I would hope that you might change that and take a personal interest in these areas. Under Secretary Watt, the Congress has had to appropriate 50 percent more than what was requested by the Department for the territories. This is very disturbing to me, Mr. Clark, when one considers the responsibility we have for these areas and the problems that they are experiencing. I might say that although these areas are far-flung, there is a great deal of interest in them among the members of this Committee. Do you intend to review the conditions in the U.S. territories and take an active interest in working with this Committee to solve their problems?

A91. I want to assure you that the U.S. territories will receive my full attention. I have been briefed on the problems facing each of the U.S. Territories as well as the Trust Territory. Some of their problems are international in nature and were known to me when I was the Deputy Secretary at the State Department and in my position as National Security Advisor to the President. I understand the importance of these areas.

I will also make myself available to work with you and other members of the Committee to ensure that the basic needs of these fine people are met. Yes, I will review their conditions and work with the Committee to address their problems.

Q92. With respect to the Trust Territory of the Pacific Islands, a GAO report from early this year has pointed up a continuing need for U.S. technical assistance for the Micronesian entities in order to enhance their ability to become self-sufficient under the Compact of Free Association. The GAO has recommended that during the period before the Trusteeship ends, the Secretary of the Interior, in cooperation with the Micronesian Governments, should 1) conduct a series of assessments of the technical assistance requirements of the Micronesian governments; 2) identify what technical assistance is available and can be provided by federal agencies, the private sector, international agencies and colleges and universities; and 3) develop an action plan to guide the provision of all U.S. technical assistance to the Micronesian governments. Mr. Clark, are you aware of the need for technical assistance in the Trust Territory and will you give the GAO recommendation's serious consideration?

A92. I understand that the Department, with support of Congress, is responding in a positive manner to many of the territorial requests for technical assistance. I have been advised that officials in the Office of Territorial and International Affairs (OTIA) are currently conducting an assessment of technical assistance needs in the territories and that representatives of OTIA have recently completed a tour of the Trust Territory with emphasis on such assistance. Follow-up trips dealing with specific technical assistance issues are planned; I encourage such travel. I expect to continue the emphasis on technical assistance, especially in the areas of improved governmental operations, maintenance, and economic development. I will review the GAO recommendations, if confirmed.

Q93. Are you aware of the tremendous amounts of money that the U.S. territories have to spend each year on fuel costs? The fact is that the territories spend huge amounts, sometimes more than 50 percent of their budgets, for diesel fuel to run electric generators or to fuel inter-island cargo ships. This Committee has been very interested in developing the use of alternative energy resources in the U.S. territories and in fact authorized a study of the feasibility of using alternative energy systems in the various island territories. Would you, as Secretary of the Interior, give full support to such efforts to provide energy independence to the U.S. territories--support which will include funding for the implementation of alternative energy systems on these islands?

A93. With regard to a proportion of territorial budgets devoted to fuel expenditures, it is my understanding that in the Trust Territory, where there is a specific governmental expenditure for fuel, the percentage of the budget devoted to fuel averages approximately fifteen percent.

I favor the use of energy resources that provide a viable and economic alternative to the use of fossil fuels. But, the cost of using such alternative resources for energy independence in the United States Territories, given the existing state of technology, may be prohibitive. I am told that solutions to short-term energy problems may include improved maintenance and conservation. But, over the longer term, I believe that improved technology will cause wide use of alternative energy resources in the United States Territories and Trust Territory of the Pacific Islands. With regard to your specific funding question, I will say that to the extent that the Federal budget can accommodate such alternative energy projects, I will support their funding.

Q94. This Administration has studied water project cost-sharing for more than 2 years. No coherent policy has yet resulted. For example, on June 15, Assistant Secretary of the Army Gianelli told the Environment and Public Works Committee that non-Federal water users should pay at least 35 percent of the cost of all new water projects. Two days later, Secretary Watt told the same Committee that cost-sharing should be established on a case-by-case basis.

(a) Who speaks for this Administration with respect to water cost-sharing?

(b) What is the Administration's policy on this subject?

(c) What will be your advice on this subject?

A94. (a) President Reagan ultimately speaks for this Administration on the subject of water project cost-sharing and all other matters. From time to time other appropriate officials within the Administration such as the Secretary of the Interior, the Director of the Office of Management and Budget, and the Assistant Secretary for the Army for Civil Works will continue to address this issue.

(b) The latest thinking of this Administration on the subject of water project cost-sharing was expressed in a letter from the Director of the Office of Management and Budget, David A. Stockman, to Senator Robert Stafford, Chairman of the Committee on Environment and Public Works, dated August 5, 1983. I have enclosed a copy of Mr. Stockman's letter for your consideration.

(c) As I stated in my testimony, water project cost-sharing should be addressed on a case-by-case basis taking into account the previous commitments of the Federal Government and recognizing the ability of beneficiaries to pay.

Q95. I am told that Interior has sent draft legislation to OMB that would amend the Reclamation Reform Act of 1982. I am told that the draft legislation would repeal section 203(b) of the Act. That section requires that full cost be paid on water used on lands in excess of 160 acres if the district does not amend its contract within 4½ years after the Act became law.

(a) Is it true that such draft legislation has been sent to OMB? (If, "yes," continue)

(b) Please provide the Committee with a copy of the draft legislation.

(c) Would the draft legislation effectively allow an irrigator to receive subsidized water to serve an unlimited amount of leased land for an unlimited period of years?

(d) The Department did not object to section 203(b) when it was enacted only a year ago. What is the Department's rationale for repealing section 203(b) now?

(e) What are your personal views on the draft legislation?

(f) If OMB approves the draft legislation, will you propose it to Congress?

A95. (a) I have been told the draft legislation has been sent to OMB.

(b) I have been advised that the draft legislation merely repeals section 203(b).

(c) I have been advised that repeal of section 203(b) would not allow individual irrigators to receive subsidized water to serve an unlimited amount of leased land for an unlimited period of years.

(d) I am told that the Department's rationale for proposing repeal of section 203(b) is that it has concerns over the constitutionality of that section and about its potential impact on the financing abilities of some irrigation districts.

(e) I haven't had a chance to review the legislation, but will do so at the earliest opportunity.

(f) After reviewing this issue, I will discuss this question with appropriate Administration officials.

Q96. Please provide the Committee with a complete status report on the implementation of the Reclamation Reform Act. Include any significant problems that the Department is now facing or foresees.

A96. I am advised that the implementation of the Reclamation Reform Act is going quite well. Public hearings were conducted throughout the West and in Washington, D.C. to receive testimony on the draft rules that were published in the Federal Register. Final rules and regulations are currently being reviewed by the Office of Management and Budget and the Department expects to publish final rules prior to November 15.

Q97. Since December 1970, it has been Department of the Interior policy to maximize natural gas production from the Outer Continental Shelf. That policy is embodied in OCS Order No. 11 which establishes the policy that OCS production should be at the "MER" or maximum efficient rate of production. Some have suggested recently that there should be a change in that policy, and that the Interior Department should impose restrictions on OCS production through a system of "allowables" for production. Do you know of any reason the longstanding policy against imposing restrictions on OCS production should be changed?

A97. I am aware of proposals now before the Congress to revise the policy against imposing restrictions on Outer Continental Shelf (OCS) oil and gas production. However, as a part of my review of Departmental policies, processes and personnel, I will examine this issue area.

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Q98. Do you agree with me that restricting OCS production could have a negative long-term effect, discouraging the capital investment necessary to bring about production from the OCS?

A98. In view of the fact that this issue is now before the Congress, I would like to have the opportunity to study the issue carefully.

Q99. Is it your interpretation that money authorized by SMCRA can be used to reclaim non-coal projects? If so, in what instances would you authorize the allocation of money for such non-coal reclamation projects?

A99. I am advised that AML funds must be used in accordance with the requirements of statute. I am further advised that the law provides that non-coal reclamation projects may be undertaken only after all necessary coal projects have been completed unless the non-coal problem poses a threat to public health and safety.

Q100. Would you support current legislative proposals in Congress which make abandoned mine lands upon which improvements have been made subject to different tax treatment?

A100. I have no position on that issue at the present time. I will review the matter, if confirmed.

Q101. Several environmental groups claim that the Administration's Interim Evaluation reports used to assess the reclamation problems in coal mining States have been inconsistent and that data presented have been insufficient. Do you believe that the Administration's oversight of State reclamation programs could be improved; and if so, how?

A101. Improvement is always possible but I do not have sufficient information to identify specific improvements. I will review the matter, if confirmed.

Q102. Abandoned Mine Land fees go toward reclaiming abandoned lands mined prior to the enactment of SMCRA. The nonpayment of AML fees had been a recurrent problem in the administration of the provisions of SMCRA. In the past several months, OSM has directed State agencies to deny new mine permits to those operators delinquent in their AML payments. How should the Department treat coal mine operators who fail to pay the Abandoned Mine Land fees required by SMCRA?

A102. The Department should use every reasonable means at its disposal to assure that monies owed to the Federal government are paid. I have been advised that the Surface Mining Control and Reclamation Act and OSM regulations require payment of AML fees, and the Act explicitly requires that no permit be issued to any operator who is in violation of this Act or other laws and regulations of the United States.

Q103. Does the Department's directive to State agencies that they deny new mine permits to operators delinquent in their AML payments appear to be working to encourage payment of these fees?

A103. I am informed that as of October 19, 1983, denial actions by States have resulted in payment of $3.9 million in delinquent AML fees and interest. If confirmed, I will be reviewing this program on a continuing basis to ascertain if further measures are necessary.

Q104. Does the Federal role in enforcing AML fee collection need to be clarified; and if so, how?

A104. I have been advised that 98% of AML fees are currently being collected. If it is determined that further clarification is necessary I will review appropriate means of achieving that clarification.

Q105. If confirmed, will you first take strong action to identify those mines with outstanding violations of the strip mine law and other environmental statutes?

A105. I have been advised that the Department has already initiated a program to identify mines with violations and is proceeding to take a wide range of enforcement actions to obtain compliance. I will review this program to assure that all appropriate actions are being taken and that the program is proceeding expeditiously.

Q106. What specifically is Interior doing to identify applicants for new mine permits that have outstanding violations of environmental laws?

A106. I have been advised that the Department has completed an inventory of all unabated violations of the Surface Mining Control and Reclamation Act. The list of violators has been provided to all State regulatory authorities. In addition, the Department is matching permit applicants against the violator list to identify any applicants with unabated violations.

Q107. A Federal Judge found that Interior was "flaunting the law" by failing to collect over $44 million in fines due the Federal government and failing to take action against over 1700 mines that did not stop illegal mining activity after being ordered to do so. This case is generally referred to as the "megabucks case". The Federal Judge has ordered OSM to take action to correct these enforcement breakdowns. However despite assurances by Interior that it will remedy the breakdowns in enforcement, the agency has appealed the Judge's decision to the Court of Appeals. If confirmed, will you agree to withdraw the agency's appeal of the megabucks decision?

A107. I will review this matter, if confirmed.

Q108. If no, will you assure us that regardless of how the Court of Appeals rules on the "technical issues" in the megabucks case, you will seek to collect the $44 million in uncollected fines and take action against the 1700 uncorrected mine violations?

A108. The Department will continue to pursue the collection of uncollected fines, and will continue to seek collection of unabated violations independent of the litigation.

Q109. In OSM's budget justification document for FY '84 the agency claimed that the states are in the best position to implement all aspects of the Abandoned Mine Land (AML) program including the Federal responsibilities. To this end, Interior would like to cut funding for traditional Federal projects--emergency, non-emergency and RAMP (The Rural Abandoned Mine Reclamation Program). Congress has voted to force Interior to continue to fund these areas in FY '84. Does Interior expect that the states will take over the RAMP and other projects that have traditionally been funded using the Federal share of the AML fund? If so, will additional funds be allocated to the states to cover the costs of these new responsibilities?

A109. These are important budget and environmental issue areas and I will closely review them, if confirmed.

Q110. What will you do as Secretary to assure that critical reclamation projects which had been funded out of the Federal share will continue?

A110. In my review of the 1985 budget I will carefully consider this area.

Q111. How will you ensure that States carry out the Federal responsibilities?

A111. I have been advised that the projects must be selected in accord with the priority system and must meet OSM and other Federal regulations governing grants. Allocation of funds through the Federal grant process assures compliance with Federal law.

Q112. What is going to happen to the Federal share of monies that now total over 280 million dollars?

A112. Funds will be allocated to entitled States at such times as they qualify pursuant to provisions of the Surface Mining Act.

Q113. Under SMCRA each mine operator must pay into a fund for reclaiming damage done by strip mines that operated prior to the passage of the existing law. This fund is known as the Abandoned Mine Land Reclamation Fund (AML). During the last couple of years there has been much controversy between the states and OSM regarding the state share allocation formula, and the AML national inventory. The states maintain that OSM has resisted allocating money from the fund. There is currently over 600 million dollars in the fund. What is the agency doing to correct the problems articulated by the states?

A113. If confirmed, I will work closely with State governors to address deficiencies in the AML program.

Q114. Will you as Secretary take an active role in assisting the states in obtaining their full share so that unemployed miners can be offered jobs to reclaim hundreds of thousands of acres of ravaged lands in order to put them to productive use?

A114. I am advised that the Department's policy is to provide funds to qualifying States at levels that can be fully utilized, up to each State's share of the AML fund. If confirmed, I will seek to distribute funds as expeditiously as possible.

Q115. Would you provide the Committee with letters and other communications from the states and public regarding their criticisms of the current programs and a point-by-point explanation of what Interior is doing to respond to them.

A115. If confirmed, I will work with the Committee to make appropriate information available. I have been advised that the specific AML apportionment formula is still subject to public comment.

Q116. What steps would you recommend to minimize the U.S. dependency on foreign sources of strategic and critical minerals?

A116. A number of related steps can be identified which could minimize U.S. dependency on strategic and critical materials from foreign sources. These include an expansion of U.S. sources and, alternatively, from friendly foreign sources that would be strategically accessible in emergencies. At the same time, we must seek to reduce requirements for such materials through better design and fabrication processes and through the development of substitutes or alternatives.

Q117. What incentives would you support to encourage research and development in the private sector of strategic mineral alternatives?

A117. The Economic Recovery Tax Act of 1981 contained special provisions designed to encourage increased research and development by the private sector. In addition, the Administration has also proposed legislation which would promote joint research ventures. I fully support these efforts.

Q118. How can we diversify our foreign sources of strategic materials when we are limited by the number of countries that have a supply of these materials in commercial quantities?

A118. We can diversify our foreign sources of strategic materials by helping to maintain international stability and a proper international economic climate that will encourage investment by the private sector in exploration and development of materials.

Q119. The National Defense Stockpile was initiated under the 1939 Strategic Minerals Act. The stockpile targets are developed by the Federal Emergency Management Agency and are premised on requirements for a three-year mobilization. According to the Congressional Budget Office, about $11 billion in new appropriations would be required to meet all current goals at early 1982 prices. Will you support a policy of selling materials in excess of stockpile goals?

A119. This program is under active review within the Administration. From my previous experiences at the Department of State and the National Security Council, I have been made aware of this program's national and international implications.

Q120. Will you support a policy of selling materials in excess of stockpile goals?

A120. This program is under active review within the Administration. From my previous experiences at the Department of State and the National Security Council, I have been made aware of this program's national and international implications.

Q121. Do you support meeting current stockpile goals?

A121. In my former position as Chairman of the Emergency Mobilization Preparedness Board, I directed a complete update of our defense mobilization preparedness plans. A part of this update involves a careful review, currently under way, of stockpile goals, planning and implementation. In the interim, we should continue to make reasonable progress toward acquiring those materials significantly short of present goals.

Q122. The stockpile has been criticized because existing inventories purchased in the 1950's no longer meet current physical or chemical requirements. It has also been charged that previous audits by the Inspector General of the General Services Administration (GSA) have revealed that materials have been stolen or incorrectly accounted for. Would you support the appropriation of funds for a comprehensive audit of the stockpile by GSA?

A122. It is my understanding that some audits of the suitability for use of stockpile materials in light of current specifications are already under way. On the question of additional funding for such audits, I would have to defer to those with audit responsibilities.

Q123. Title III of the Defense Production Act (DPA) of 1950 authorized the President to guarantee loans and to take other financial steps to expand productive capacity and supply for national defense security. Do you think currently that our national defense needs warrant subsidization of domestic production of critical materials?

A123. The Administration has consistently advocated a five-year extension of the Defense Production Act, a matter currently before the Congress. In view of current fiscal restraints, you can be assured that any proposed incentive program would be subjected to the most careful scrutiny and analysis before I could recommend implementation.

Q124. Is there a place in our National Wild and Scenic River System for rivers whose shorelines are not already wholly in federal ownership?

A124. I am advised that, if the river or rivers in question meet statutory criteria, they are eligible for inclusion in the National Wild and Scenic River System.

Q125. Would you, as Secretary of the Interior, recommend to Congress to include new rivers into the national system which flow in whole or in part through private lands?

A125. I am advised that, if the river or rivers in question meet statutory criteria, they are eligible for inclusion in the National Wild and Scenic River System.

Q126. Will you as Secretary, support any legislation which in whole or part would weaken the Wild and Scenic Rivers Act?

A126. If confirmed I would have to review carefully any proposed legislation.

Q127. In FY 81, $3.6 million was appropriated for river and trails studies and technical assistance. Secretary Watt's request for FY 84 was $640,000, a decrease of 80% in just three years. How can the National Park Service possibly conduct credible river eligibility studies with such massive budget cuts?

A127. I am informed that the Department has systematically completed work on the study rivers and trails designated by Congress. Therefore, funding needs for study purposes have lessened. If confirmed, any studies conducted during my tenure will meet statutory requirements and appropriate funding levels will be requested.

Q128. Would you support a funding increase for river and trails studies and technical assistance in your FY 85 appropriation request?

A128. I will review that issue during formulation of the Department's FY 85 budget.

Q129. No new river studies have been initiated, and none of the 25 current studies have been released since 1980. Would you support additional Wild and Scenic River studies and designation?

A129. Yes, if new designations and studies are warranted.

Q130. Despite obvious Congressional support, will the Department again request no funds for the State Historic Preservation Offices and the National Trust for Historic Preservation in FY 85?

A130. As I stated at my confirmation hearings, I strongly support historic preservation efforts. Budget levels will be reviewed carefully, if I am confirmed.

Q131. If no request will be made, why not?

A131. Again, budget levels will be reviewed if I am confirmed.

Q132. If there is no request, what kind of support would you be prepared to give within the Administration to reverse this decision and provide adequate funding to the state preservation programs and the National Trust for Historic Preservation?

A132. It is proper and customary for Administration officials to support the President's budget as submitted to the Congress.

Q133. Do you believe in continuing the current mandatory role of the state historic preservation offices in the tax certification process?

A133. I will address this matter fully in my review, if confirmed.

Q134. What benefits do you see in imposing user fees for the processing and review of rehabilitation requests in the tax certification process?

A134. At this time, I am not familiar with this particular user fee issue. I will address it as part of my overall review of the historic preservation program, if confirmed.

Q135. Do you believe in the continued independent role of the Advisory Council in mediation of preservation conflicts between federal agencies and local and private interest?

A135. I generally support an independent Advisory Council on Historic Preservation. I have been advised that the National Historic Preservation Act does not specifically authorize a role in mediation; however, the Council's comments may be helpful in such a process. I will review this matter, if confirmed.

Q136. Mr. Clark, the Alaska Lands Act increased the acreage of national parklands by 700 percent. Yet, by FY 83 the National Park Service had only received a 50 percent increase over its pre-ANILCA budget to manage these lands. Do you believe that a 50 percent increase in budget is sufficient to manage a 700 percent increase in lands?

A136. As I understand, the National Park Service budget in Alaska has increased substantially since enactment of the Alaska Lands Act. Every unit is staffed and the Service is conducting basic "on-the-ground" management with special emphasis on resource protection. I understand that in the past, Congress has provided less funding for ANILCA implementation than requested by the Administration. I have not had an opportunity to review the budget for these areas but will do so, if confirmed.

Q137. The Alaska Lands Act requires the National Park Service to complete management plans for 13 parks and 13 wild and scenic rivers by December 1985. In addition, 19 million acres have to be reviewed for possible inclusion in the National Wilderness Preservation System. With each park professional in Alaska currently managing approximately two million acres do you believe that these management plans can possibly be comprehensive?

A137. I am told that General Management Plans are being prepared for all Park units in accordance with the provisions of the Alaska Lands Act, that these GMP's also include the Wilderness reviews required by law, and that the Service is conducting a series of Wild River studies. I am also informed that all studies are currently on schedule.

Q138. Each park professional in Alaska manages almost 1000 times as much land as each park professional in lower 48. Will you support substantial increases in the park service budget to provide more park personnel in Alaska?

A138. I am informed that the number of Park personnel in Alaska has increased each year since enactment of ANILCA. However, the number of personnel needed for the Alaska parks is less than that needed to properly administer smaller, but more extensively used, units in the lower 48. Staffing levels are determined by Park professionals in accordance with available resources. I have not had an opportunity to review the budget for these areas but will do so, if confirmed.

Q139. In 1982, Mr. Clark, the Administration requested only $235,000, less than one-seventh of the Park Service's $1,718,000 estimated need for completing the management plans and reviewing wilderness acreage. Will you recommend increasing the future budget requests by Interior for National Parks in Alaska?

A139. I am informed that all NPS studies being conducted pursuant to ANILCA are on schedule and are receiving the levels of funding to produce credible results in accordance with statutory requirements. I have not had an opportunity to review the budget for these areas but will do so, if confirmed.

Q140. Besides increasing national parklands, ANILCA increased refuge lands in Alaska by 350 percent, yet, here again staffing has not been increased accordingly. There has been only a 50 percent increase in the total field staff. Leaving each F&WS professional in Alaska to manage 2.7 million acres of refuge lands. Mr. Clark, do you feel that this is sufficient staffing for managing refuge lands in Alaska?

A140. Fish and Wildlife Service personnel levels in Alaska, I am informed, have increased each year since enactment of ANILCA. All units are staffed and staffing is expected to increase. Sufficient personnel will be provided to manage the units and assure resource protection.

Q141. How can the comprehensive park and refuge plans and wilderness reviews mandated by ANILCA be completed in a timely and comprehensive manner when these agencies continue to be chronically underbudgeted and understaffed? Will you ensure that Interior's budget provides for the necessary budget and staff?

A141. I am informed that all Park and Refuge plans are currently proceeding in accord with the Congressionally established schedules. All plans will meet or exceed statutory requirements. Sufficient personnel and funding will be provided to meet these objectives.

Q142. In stark contrast to the lack of funding for the Park Service and the Fish and Wildlife Service, the Department of the Interior's FY 83 budget requested $9.4 million for the assessment of Alaska's mineral resources mandated by ANILCA. This budget request was $1 million more than the total budget for the planning activities of all other federal land agencies combined in Alaska. Yet this assessment has no deadlines to meet, no programs to implement and no plans to prepare. Mr. Clark, do you think this budget request is warranted for a program whose only responsibility is to report to Congress once a year?

A142. I am informed that the AMRAP program was started by the previous Administration and continued by Congress in ANILCA and that funding for the program has been continued at the same effective level established by the previous Administration. I will have to examine the budget in detail to formulate a view on its propriety.

Q143. Mr. Clark, a 1982 Memorandum of Understanding between the USF&WS and the Alaska Department of Fish and Game (ADF&G) provides ASF&G with broad management authority over F&WS lands and resources. This is a major departure from past policy and leaves an agency with different management goals managing F&WS lands. Do you believe that Interior must return responsibility for wildlife management of National Wildlife Refuges to the U.S. Fish and Wildlife Service?

A143. My understanding is that Memoranda of Understanding between the Park and Fish and Wildlife Services and their state counterparts (such as the Alaska Department of Fish and Game) are standard operating procedure throughout the country. I am told each memorandum reflects a basic policy which is in effect in all 50 states: the taking of fish and game is regulated by the states except where specifically provided by Congress.

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Q144. An argument often used for justifying this agreement between USF&WS and ADF&G is that the F&WS does not have enough personnel in Alaska to take care of these lands. Will you support increased F&WS personnel to manage these lands?

A144. I am informed that Fish and Wildlife Service personnel levels are established by the professional managers in accordance with overall resource availability and the needs of the Service. I will review this issue during formation of the Department's FY 85 budget.

Q145. Last April the Department of the Interior misinterpreted ANILCA and through administrative regulations endorsed the closing of only the "sensitive sectors" of the three pre-ANILCA parks (Denali, Katmai and Glacier Bay) to motorized travel for the first time. Mr. Clark, will you move to close all of the areas within the pre-1980 parks to motorized travel?

A145. I am informed that the issue of closing the pre-ANILCA portions of three Alaska parks is currently being reviewed by the Park Service following extensive public comment on its earlier proposal. I will review that issue with the Park professionals and render a decision in accordance with the law.

Q146. Mr. Clark, one of the most devastating effects of ANILCA is the land exchanges which have been proposed during this administration. Legislative history shows that the intended use of the land exchange provision was to provide flexibility for obtaining inholdings within public land units in Alaska. The Interior Department's use of this provision flies in the face of the intent of Congress. Will you support a commitment to no further land exchanges involving wilderness, parks, or refuges without express Congressional approval?

A146. I am informed that through the use of the exchange, donation, and acquisition authority in ANILCA, the Department has acquired over 1.2 million acres of Park and Refuge inholdings since January, 1981. At this point it appears that the authority should be only used after a case-by-case review to acquire lands which provide a benefit to the Park and Refuge system.

Q147. Do you agree with the concept of area wide leasing (leasing large areas of the OCS) as Secretary Watt did? In other words, would you favor size limits on lease sales to enable a thorough assessment of environmental risks in each proposed tract?

A147. I believe the adequacy of an environmental impact statement (EIS) must be measured by the available data base and understanding of the issues involved. It is my understanding that while these area-wide EISs do cover a large region, environmentally sensitive areas or resources within the area are given the same level of detailed coverage as they would if they were being analyzed in an EIS covering a smaller region. I fully intend to look into this question further as part of my overall review of the program, if confirmed.

Q148. Would you favor a requirement that lease sales in frontier areas be scheduled 3 years apart to allow time to assess the impact of the previous lease sales on the environment and to allow for the completion of environmental studies?

A148. The scheduling of lease sales in frontier areas will be the subject of my review, if confirmed.

Q149. Would you favor passage of H.R. 3864 which amends the Outer Continental Shelf Lands Act and places a moratorium on leasing in certain areas of the North Atlantic until 1990 and other areas until 2000?

A149. I am aware that there are several bills proposed which would amend the leasing process and/or place prohibitions on leasing. I am not familiar enough with certain of the individual areas to comment on the merits of the prohibitions.

Q150. Should DOI automatically exclude tracts from a proposed lease sale if a state requests those deletions?

A150. The OCS Lands Act requires that the Secretary of the Interior balance both State interest and interests of the Nation in determining the manner in which oil and gas leasing takes place upon the OCS.

I am told that in the past, the Department has often deferred lease tracts which pose a problem to States. I will closely review this and other policies and processes within the Department.

Q151. Do you feel that in the past the DOI has failed to properly balance the potential risks to the environment considering the low oil and gas resource estimates for the North Atlantic?

A151. I am aware of the numerous values and risks which must be assessed in reaching balanced OCS leasing decisions, including those affecting the North Atlantic. I will carefully review this particular issue, if confirmed.

Q152. Considering the low oil and gas resource estimates and the potential risks to the environment, especially the important Georges Bank fishery, would you favor cancellation of the proposed February 1984 North Atlantic lease sale?

A152. With regard to the North Atlantic lease area, I am not in a position at this time to determine what constitutes the appropriate balance between the need to develop our domestic energy resources while providing protection for our important environmental resources. If confirmed, I will study this issue, working closely with the affected coastal states and other interested parties in order to reach a decision which best satisfies the national interest.

Q153. Do you feel we should lease tracts in water depths greater than 2000 meters when technology to safely drill in those depths has not been proven?

A153. I have been advised that technology is currently available and is being applied by a drillship in water depths of 6,800 feet in the Atlantic. As part of my overall review of OCS leasing practices, I will carefully review the experience in drilling at these particular depths.

Q154. Judge Clark, in your appearance before the Committee, you stated that the "jury is still out" on the Coal Leasing Commission and the subject of whether or not the government has been obtaining fair market value for its coal. In your understanding what is the Commission doing?

A154. My understanding is that the Commission on Fair Market Value for Federal Coal Leasing was chartered pursuant to an act of Congress to examine the statutes, policies and procedures of the Interior Department as they relate to receiving fair market value for leasing coal from Federal lands. While I have not had any contact with the Commission, I am told that it is looking at the question of fair market value in a broad sense and expects to complete its work and report by the end of January, 1984.

Q155. In your opinion, what should it be doing?

A155. The law is very clear that it should be examining the question of whether or not the procedures for assuring receipt of fair market value are adequate. I am told that the Department's charter for the Commission broadened this to include a review of the underlying policies and statutes. My understanding is that the Conference Committee identified some specific procedures and policies relating to fair market value that were to be examined. I think the Commission should do what it has been asked to do by Congress and the Department.

Q156. Is it your understanding that the Commission is attempting to determine whether or not the government has been receiving fair market value?

A156. My understanding is that it is examining the procedures, policies and statutes to assure that fair market value is received and that if the Commission finds them inadequate, it will make recommendations for changing them.

Q157. Is it also your understanding that the Commission is undertaking a thorough review of the existing coal leasing program?

A157. My understanding is that it is undertaking a thorough review of the coal program as it relates to fair market value. The Appropriations Conference Committee chose to assign a study of environmental questions regarding coal leasing to the Congressional Office of Technology Assessment.

Q158. Is it your understanding that coal lease sales, regulatory changes and policies of the past three years are being studied in order to make recommendations for future coal leasing policy?

A158. It is my understanding that coal lease sales, regulatory changes and policies are being studied without particular year limitations in order to make recommendations for future coal leasing policy.

Q159. Will you agree to submit to Congress, if confirmed, your response to the Commission's report within 60 days after that report is filed in order for Congress to review that response prior to the expiration of the 90 day lease suspension?

A159. I will respond in as timely a fashion as possible to the report of the Commission in order that the Congress will have the benefit of the Administration's views.

Q160. Many times over the past several years I have expressed my deep concern over the 5-year Outer Continental Shelf Oil and Gas Leasing Program developed by Secretary Watt. While we are all aware of our need to become energy independent, the plan to develop offshore oil and gas must strike a proper balance between protecting the marine and coastal environments and meeting our Nation's energy needs. Six of the ten sales scheduled during the first 16 months of Secretary Watt's Program (July 1982 - October 1983) have been challenged on environmental grounds by five coastal states, local governments, and conservation organizations. This contrasts with a total of five lawsuits challenging 20 lease sales on environmental grounds brought from the date of passage of the 1978 Amendments to the Outer Continental Shelf Lands Act until adoption of the Watt Program.

A160. As with all policies, processes and personnel within the Department, I shall conduct a review of the Outer Continental Shelf oil and gas leasing program.

Q161. In developing a plan for offshore oil and gas development, it is sometimes necessary to delete sensitive coastal areas from the leasing program. Because Secretary Watt has consistently refused to delete these sensitive areas, Congress, through the appropriations process, has had to prohibit the offering of these areas for sale. To cite an example, Georges Bank is an extremely productive fishing area located in the North Atlantic off New England. This area has supported a commercial fishing industry for over 300 years and a large portion was included in the leasing prohibition in the FY 1984 Interior Appropriations Bill.

Do you intend to assure that this environmentally sensitive and economically valuable area will continue to be protected in the future?

A161. I am very concerned about the protection of environmentally sensitive areas, including commercial fishing resources, and am aware of the controversy surrounding offshore oil development. I will take such actions as are necessary and appropriate to assure the protection of environmentally sensitive areas.

Q162. Under former Secretary Watt's streamlined procedures for Outer Continental Shelf leasing, area-wide environmental impact statements were required which covered areas as large as 8 million acres. The EISs often cover areas of varying habitats and vastly differing in species composition.

Do you believe that environmental impact statements covering entire planning areas provide decision makers with sufficient information needed to ensure the protection of environmentally sensitive areas?

A162. I believe the adequacy of an environmental impact statement (EIS) must be measured by the available data base and understanding of the issues involved. I understand that the Department of the Interior has spent approximately $340 million for environmental studies on the OCS, representing one of the largest environmental data banks in the world. It is my understanding that while these area-wide EISs cover a large region, environmentally sensitive areas or resources within the area are given the same level of detailed coverage as they would if they were being analyzed in an EIS covering a smaller region. I fully intend to look into this question further as part of my overall review of the program, if confirmed.

Q163. There are a number of projects that the Wilderness Society and the National Parks and Conservation Association believe should be acquired as soon as possible. Will you take steps to purchase land authorized for the following?

A163. I am not familiar with the acquisition status of specific tracts. The Department advises me of the following:

(a) Grand Teton National Park

The question apparently refers to the McReynolds/Thompson properties totaling approximatley 260 acres. The National Park Service is currently having the properties appraised by a contractor with the owners' permission. Negotiations should commence once the appraisals are completed and approved.

(b) Olympic National Park

I understand that over $7 million has been spent or is close to being obligated for land acquisition in Olympic.

(c) Cuyahoga National Recreation Area

I understand that appraisals and negotiations toward purchase are currently underway on numerous parcels in this recreation area.

(d) Biscayne National Park

Appraisals and negotiations are currently underway, and acquisition is expected to proceed with priority given to the most critical parcels.

(e) Great Smoky Mountains National Park

The last major inholding referred to was the 2,300-acre Cities Service Company property. Acquisition was completed last June.

Q164. Will you spend funds appropriated for park acquisition by the Congress?

A164. If I am confirmed, the Department will comply with all appropriations Acts and other applicable statutes governing the obligation of appropriated funds.

Q165. Including funds in the FY 84 interior appropriations bill, there is now more than $100 million available to the park service for land acquisition. Will you instruct Assistant Secretary Arnett who has been blocking expenditure of park acquisition funds to spend these funds during FY 84?

A165. If confirmed I will review this matter and take appropriate action.

Q166. Will you repeal the regulatory changes in the coal leasing program and return Federal coal management to leasing based upon need for production, not the need for stockpiles?

A166. The policy of leasing coal will be one of the top areas that I will review if confirmed. The Commission on Fair Market Value of Coal Leasing is reviewing the program and I will consider the findings of that study in evaluating the Departmental coal program.

Q167. Will you suspend planned lease sales until pre-sale planning is reviewed and brought into compliance with the requirements of the Federal Land Policy and Management Act and the National Environmental Policy Act, and new leasing targets have been established?

A167. The Commission on Fair Market Value Policy has been directed by Congress to review whether pre-sale planning procedures are adequate, particularly with regard to land use planning, public participation, and the role of the Regional Coal Teams in determining the timing and amount of leasing. No additional planned lease sales will occur that have not been expressly authorized by Congress until the Coal Commission has reported to the Congress on that mandate. I also understand that the Congress has directed the Office of Technology Assessment to review the environmental aspects of coal leasing.

Q168. Please state your policy position on bringing strong enforcement actions to clean up the thousands of mines that have been unreclaimed since the strip mine law was passed in 1977, and deny new mining permits to those responsible for those unreclaimed mines until the cleanup is complete.

A168. It is my understanding that enforcement action is already underway in accordance with the mandate of the law. I am also advised the Office of Surface Mining has established a special task force to pursue the approximately 1700 unabated violations and has directed the States to deny new permits to operators with such violations. Finally, OSM is working with other Federal agencies to assure that no coal is purchased from these violators until corrective action is taken. If confirmed, I will review these activities closely.

Q169. Please state your policy position on reversing a number of changes made to the permanent program regulations, including those related to endangered species, possible mining in the national parks, and return to approximate original contour after mining.

A169. I am told that the regulatory reform effort was designed to meet the intent of Congress as expressed in the Surface Mining Control and Reclamation Act. The policies of the Office of Surface Mining will be included in my review of Departmental programs, if I am confirmed.

Q170. Please state your policy position on invoking Federal power (including possible assumption of direct Federal regulation) in those States where strip mining programs are known by OSM to have significant problems.

A170. As I understand it, the Surface Mining Control and Reclamation Act intends assignment of primary responsibility for surface mining regulation to the States. Under the law, if a State cannot, or will not, meet these standards, OSM will take direct Federal action. It is my understanding that OSM has initiated action under Federal regulations to require substantial improvements in three State programs and is working closely with several other States on individual problems.

Q171. What is your position on accelerating acquisition of authorized areas with top priority to those tracts threatened by development?

A171. As a general matter, I would support continuation of policies to acquire additional lands that are appropriate for inclusion in the Federal estate and are threatened by development. As I suggested in my confirmation hearing, my review of the upcoming budget may lead to a determination of a need for additional acquisition funds. .

Q172. What is your position on increasing the Administration's budget request to at least $400 million annually, the minimum amount needed to acquire critical land areas for national wildlife refuges?

A172. It is my understanding the request for Land and Water Conservation Fund monies for acquisition should be based on priority needs and consistent with a budget request that is fiscally sound. If confirmed, I will give the program a careful review.

Q173. Will you withdraw the new policy of opening acquired national wildlife refuges in the contiguous 48 states to oil and gas leasing and return to previous policy?

A173. It is my understanding that refuges withdrawn from the public domain and refuge wilderness areas are closed to oil and gas leasing. On other lands, Federal leasing is only allowed after a determination by the Fish and Wildlife Service, on a case-by-case basis, that such activity would be compatible with refuge purposes. If confirmed, I will review this important resource issue.

Q174. What is your position on repealing the directive ordering expansion of economic uses on national wildlife refuges?

A174. My understanding is that the Fish and Wildlife Service has identified a limited potential for expanding economic uses of refuges, such as for timber harvesting, grazing, haying and concessions, while still protecting refuge resources. I will review this subject, if confirmed.

Q175. Will you reverse the present Fish and Wildlife Service policy on non-toxic shot regulations and reestablish an aggressive program to remedy this problem?

A175. It is my understanding the Fish and Wildlife Service's present policy on non-toxic shot is to move toward implementation based on sound biological evidence of lead poisoning. It is currently gathering this data and will continue to work with the States including utilizing their available data. I will review this subject, if confirmed.

Q176. What is your position on expediting adoption, and implementation of strengthening amendments to the current Endangered Species Act.

A176. I understand that the Endangered Species Act was amended in 1982 and the development of new regulations to implement those amendments is already underway. I will review these proposed regulations if confirmed.

Q177. Will you provide strong support for Departmental personnel involved in the review and enforcement areas.

A177. As a general proposition, I support the Department's personnel involved in review and enforcement areas.

Q178. Will you retain the marketability test contained within the existing hard rock mining regulations?

A178. I am informed that the 1872 Mining Law has been construed by the courts to require mining claimants on the public lands to prove that they have a valuable deposit by showing the "marketability" of that deposit. The Department of the Interior requested public comments on this "marketability" standard but has not formally proposed any changes to those regulations. If confirmed, I will review the policy and programmatic concerns expressed by all parties before any change is made to that standard.

Q179. Will you abandon the land sales target of 200,000 acres for FY 84 so that BLM's multiple use planning ceases to be biased against exchanges...resources?

A179. I am informed that the Bureau of Land Management is not subject to land sale targets established by non-public land managing entities of government. Land sales will be dictated by prudent land use planning under the policies of the Federal Land Policy and Management Act and other applicable Federal laws.

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Q180. Will you request at least $20 million dollars under the authority of the Wetlands Loan Act for FY 85.

A180. I understand the Wetlands Loan Act expired September 30, 1983. Congress is currently considering extension of the Act. If that occurs, the new Act will be implemented appropriately and a request for funds will be considered in developing the President's FY 1985 budget.

Q181. Will you request increased funding for FWS habitat protection efforts?

A181. If confirmed, I will review the funding needs for this important program during review of the FY 1985 budget.

Q182. Will you develop alternatives to the Garrison Diversion Project?

A182. I will be glad to work with the affected States, Congress, and Canada and I will consider any feasible alternatives to the Garrison Project.

Q183. Will you reject the Section 404 regulations to the Clean Water Act issued by the Army Corps of Engineers on May 12, 1983?

A183. I am informed that the Department of the Interior has previously commented on the Corps of Engineers Section 404 regulations. I have not yet had a chance to review those comments.

Q184. Will you retain existing Federal water rights for stock watering and other purposes?

A184. I understand this issue and will carefully review the present Departmental policy, if confirmed.

Q185. Will you accelerate the quantification and assertion of Federal water rights for multiple purposes, including fish and wildlife protection?

A185. In those areas where a Federal reserved water right is appropriate, Federal claim to those waters will be asserted in State forums.

Q186. Will you fashion a national water policy around economic efficiency, water conservation and water quality?

A186. This Administration has explored these issues through past work of the Office of Water Policy and is continuing these activities through the current planning efforts of the Bureau of Reclamation. If confirmed, I will review these issues.

Q187. Will you support pending legislation to create a National Water Board?

A187. I will review the pending legislation and will provide appropriate comments as the legislation moves forward through Congress, if I am confirmed.

Q188. Will you require all Federal water projects to pass a minimum economic and environmental criteria?

A188. I am told that a thorough analysis of economic, financial and environmental feasibility is presented to the Congress in documents provided in support of proposed legislation seeking to authorize project construction. The minimum economic and environmental standards are spelled out in the Principles and Guidelines for planning water projects and the rules and regulations governing NEPA compliance.

Q189. Will you standardize non-Federal cost-sharing of future water resource development projects?

A189. As I stated in my testimony, I believe cost-sharing on new water projects should be evaluated on a case-by-case basis.

Q190. Do you support recovery of costs of Federal investments in water resource projects through user fees, pricing, and repayment schedules.

A190. It is my understanding that Reclamation's water resource projects have traditionally provided for repayment of much of the investment through user fees, pricing and repayment contracts. I will, if confirmed, look at these cost recovery issues.

Q191. Will you place an immediate priority on research into the potential impacts of oil and gas development, with a particular emphasis on the cumulative impacts of development?

A191. I am aware of the extensive pre-development analysis and programs and the fact that much research has been done in this particular area. I will review this important issue area, if confirmed.

Q192. Will you direct the BLM to review the potential for cumulative environmental impacts before granting any oil or gas leases or approving any permits, including exploration permits?

A192. It is my understanding that the National Environmental Policy Act requires that an environmental assessment be done prior to issuing oil and gas leases. I will review these procedures, if confirmed, to assure that we are in compliance with all environmental laws.

Q193. What is your policy position regarding the revision of the five-year OCS leasing schedule so that less acreage is offered?

A193. I have not had sufficient time to review the details of the five-year leasing schedule. Of course, as part of my review of Departmental policies, I will examine the OCS leasing program, if I am confirmed.

A194. What is your policy position regarding dropping sales in environmentally sensitive frontier areas from the schedule?

A194. I am very concerned about the protection of environmentally sensitive areas, including commercial fishing resources, and am aware of the controversy surrounding offshore oil development. I will take such actions as necessary and appropriate to assure the protection of environmentally sensitive areas.

Q195. What is your policy position regarding the lengthening of the time between re-offerings, if any, in frontier areas?

A195. I have not had sufficient time to examine the time interval between re-offerings but will review the matter fully, if confirmed.

Q196. Will you request that at least $385 million be appropriated for the Fish and Wildlife budget for FY '85, with additional funds in excess of FY '84 allocated for habitat protection, research, including the cooperative wildlife and fishery units and the research laboratories, and for endangered species programs?

A196. If I am confirmed, the Fish and Wildlife Service's 1985 budget will be reviewed, if confirmed.

Q197. Will you maintain existing fish hatcheries and other fisheries facilities in the FY '85 budget request?

A197. I am informed that Federal fish hatchery production and fisheries activities are currently under review within the Fish and Wildlife Service. I will examine the results of that review and will support the appropriate Federal role in fisheries activities in formulating the 1985 budget.

Q198. Will you return funding for the four renewable resource programs (range management, soil, water and air, wildlife management, and recreation) to previous levels (50 percent of the total BLM budget)?

A198. I have not reviewed the BLM budget in enough detail to determine the relative proportions of each program to the total, but will do so if confirmed.

Q199. Will you reject the proposed cooperative management agreement program as well as other changes in BLM's grazing regulations, which would weaken management of Federal rangeland?

A199. If I am confirmed, these policies and procedures in the Bureau of Land Management will be reviewed under my mandate from President Reagan.

Q200. During his tenure, Secretary Watt eliminated wilderness study designation for 1.5 million acres of outstanding wilderness areas on BLM lands. Will you reinstate Aubrey Peak, Santa Rosa Mountains, El Malpais, Encampment River and the other areas as wilderness study areas?

A200. I am informed that these areas were dropped to bring the wilderness review into compliance with the law. The Interior Board of Land Appeals ruled that the Department had no authority to include those acres in wilderness review under Section 603. Many of these areas are still under consideration for other forms of protection under FLPMA.

The status of the 1.5 million acres is currently in litigation in Federal court in California. The judge has instructed Interior to manage these lands as if they were still under wilderness study until a final decision on this matter is reached. These areas are being managed to assure that no activities will occur that will impact their future consideration as wilderness. Because the matter is in litigation, it is inappropriate for me to comment on the merits of the case until a decision is rendered.

ATTACHMENTS

1. Answer 16 - Cost Sharing for Water Projects Letter from OMB Director Stockman

1. Answers 17 and 72 - American Indian Policy Statement of President Reagan

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

AUG 5 1983

Dear Mr. Chairman:

Thank you for your letter of June 28, 1983, in which you requests clarification of the Administration's position on increased non-federal cost sharing on water projects. I understand how uncertainty could result from apparent differences between testimony of William Gianelli, Assistant Secretary of the Army (Civil Works), and the recent letter to you from Interior Secretary James Watt.

Secretary Watt's letter and Assistant Secretary Gianelli's testimony are not inconsistent. In his June 15 testimony dealing with S. 1031, Mr. Gianelli presented to you the current thinking of the Administration. This interim policy will be applied until consensus is reached between the Administration and the Congress. When Mr. Watt spoke of establishing cost-sharing arrangements on a case-by-case basis, he was referring to the method of financing the non-federal share of construction costs. This is consistent with Mr. Gianelli's statement that long-term cost-sharing policies for flood control and irrigation will consider the ability of project sponsors to raise capital during the construction period. Where doing so would place an undue burden on them, a portion of the non-federal share could be federally financed, provided that repayment includes appropriate interest.

Secretary Watt's letter also stated that current repayment requirements would remain in effect. This statement reaffirmed the Administration's commitment to honor existing repayment contracts on facilities already under construction or completed. The new policy applies to all facilities which are not yet under construction and for which repayment contracts have not been signed.

Please contact me if you have further questions.

Sincerely,

David A. Stockman

AUG 10 83

David A. Stockman
Director

bcc:
Assistant Secretary Gianelli
Secretary Watt

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American Indian Policy

On January 24, 1983, President Ronald Reagan issued an American Indian policy statement which reaffirmed the government-to-government relationship of Indian tribes with the United States; expressed the primary role of tribal governments in reservation affairs; and called for special efforts to develop reservation economies.

The President's policy expanded and developed the 1970 national Indian policy of self-determination for Indian tribes. President Reagan said it was the goal of his administration to turn the ideals of the self-determination policy into reality. President Reagan's policy statement follows.

This Administration believes that responsibilities and resources should be restored to the governments which are closest to the people served. This philosophy applies not only to state and local governments, but also to federally recognized American Indian tribes.

When European colonial powers began to explore and colonize this land, they entered into treaties with sovereign Indian nations. Our new nation continued to make treaties and to deal with Indian tribes on a government-to-government basis. Throughout our history, despite periods of conflict and shifting national policies in Indian affairs, the government-to-government relationship between the United States and Indian tribes has endured. The Constitution, treaties, laws, and court decisions have consistently recognized a unique political relationship between Indian tribes and the United States which this Administration pledges to uphold.

In 1970, President Nixon announced a national policy of self-determination for Indian tribes. At the heart of the new policy was commitment by the federal government to foster and encourage tribal self-government. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act.

The principle of self-government set forth in this Act was a good starting point. However, since 1975, there has been more rhetoric than action. Instead of fostering and encouraging self-government, federal policies have by and large inhibited the political and economic development of the tribes. Excessive regulation and self-perpetuating bureaucracy have stifled local decisionmaking, thwarted Indian control of Indian resources, and promoted dependency rather than self-sufficiency.

This Administration intends to reverse this trend by removing the obstacles to self-government and by creating a more favorable environment for the development of healthy reservation economies. Tribal governments, the federal government, and the private sector will all have a role. This Administration will take a flexible approach which recognizes the diversity among tribes and the right of each tribe to set its own priorities and goals. Change will not happen overnight. Development will be charted by the tribes, not the federal government.

This Administration honors the commitment this nation made in 1970 and 1975 to strengthen tribal governments and lessen federal control over tribal governmental affairs. This Administration is determined to turn these goals into reality. Our policy is to reaffirm dealing with Indian tribes on a government-to-government basis and to pursue the policy of self-government for Indian tribes without threatening termination.

In support of our policy, we shall continue to fulfill the federal trust responsibility for the physical and financial resources we hold in trust for the tribes and their members. The fulfillment of this unique responsibility will be accomplished in accordance with the highest standards.

Tribal Self-Government

Tribal governments, like state and local governments, are more aware of the needs and desires of their citizens than is the federal government and should, therefore, have the primary responsibility for meeting those needs. The only effective way for Indian reservations to develop is through tribal governments which are responsive and accountable to their members.

Early in this nation's dealings with Indian tribes, federal employees began to perform Indian tribal government functions. Despite the Indian Self-Determination Act, major tribal government functions-enforcing tribal laws, developing and managing tribal resources, providing health and social

services, educating children–are frequently still carried on by federal employees. The federal government must move away from this surrogate role which undermines the concept of self-government.

It is important to the concept of self-government that tribes reduce their dependence on federal funds by providing a greater percentage of the cost of their self-government. Some tribes are already moving in this direction. This Administration pledges to assist tribes in strengthening their governments by removing the federal impediments to tribal self-government and tribal resource development. Necessary federal funds will continue to be available. This Administration affirms the right of tribes to determine the best way to meet the needs of their members and to establish and run programs which best meet those needs.

For those small tribes which have the greatest need to develop core governmental capacities, this Administration has developed, through the Assistant Secretary of the Interior for Indian Affairs, the Small Tribes Initiative. This program will provide financial support necessary to allow these tribes to develop basic tribal administrative and management capabilities.

In keeping with the government-to-government relationship, Indian tribes are defined by law as eligible entities and receive direct funding, if they wish, in five block grant programs administered by the Department of Health and Human Services. These and other blocks to the states consolidated dozens of categorical federal domestic assistance programs to reduce fragmentation and overlap, eliminate excessive federal regulation, and provide for more local control. This Administration now proposes that Indian tribes be eligible for direct funding in the Title XX social services block, the block with the largest appropriation and the greatest flexibility in service delivery.

In addition, we are moving the White House liaison for federally-recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Affairs, which maintains liaison with state and local governments. In the past several administrations, tribes have been placed along with vital interest groups, such as veterans, businessmen and religious leaders. In moving the tribal government contact within the White House Intergovernmental Affairs staff, this Administration is underscoring its commitment to recognizing tribal governments on a government-to-government basis.

Further, we are recommending that the Congress expand the authorized membership of the Advisory Commission on Intergovernmental Relations (42 U. S. C. 4273) to include a representative of Indian tribal governments. In the interim before Congressional action, we are requesting that the Assistant Secretary for Indian Affairs join the Commission as an observer. We also supported and signed into law the Indian Tribal Governmental Tax Status Act which provides tribal governments with essentially the same treatment under federal tax laws as applies to other governments with regard to revenue raising and saving mechanisms.

In addition, this Administration calls upon Congress to replace House Concurrent Resolution 108 of the 83rd Congress, the resolution which established the now discredited policy of terminating the federal-tribal relationship. Congress has implicitly rejected the termination policy by enacting the Indian Self-Determination and Education Assistance Act of 1975. However, because the termination policy declared in

Interior Secretary James Watt has visited Indian reservations and has met frequently with Indian leaders. With him, from left to right, are: Wilfred Scott, Chairman of the Nez Perce Tribe in Idaho and President of the Council of Energy Resource Tribes; Joseph DeLeCruz, President of the Quinault Tribe's Business Committee and President of the National Congress of American Indians; and Phillip Martin, Chairman of the Choctaw Tribe of Mississippi and President of the National Tribal Chairmen's Association.

H. Con. Res. 108 has not been expressly and formally repudiated by a concurrent resolution of Congress, it continues to create among the Indian people an apprehension that the United States may not in the future honor the unique relationship between the Indian people and the federal government. A lingering threat of termination has no place in this Administration's policy of self-government for Indian tribes, and I ask Congress to again express its support of self-government.

These actions are but the first steps in restoring control to tribal governments. Much more needs to be done. Without sound reservation economies, the concept of self-government has little meaning. In the past, despite good intentions, the federal government has been one of the major obstacles to economic progress. This Administration intends to remove the impediments to economic development and to encourage cooperative efforts among the tribes, the federal government and the private sector in developing reservation economies.

Development of Reservation Economies

The economies of American Indian reservations are extremely depressed with unemployment rates among the highest in the country. Indian leaders have told this Administration that the development of reservation economies is their number one priority. Growing economies provide jobs, promote self-sufficiency, and provide revenue for essential services. Past attempts to stimulate growth have been fragmented and largely ineffective. As a result, involvement of private industry has been limited, with only infrequent success. Developing reservation economies offers a special challenge: devising investment procedures consistent with the trust status; removing legal barriers which restrict the type of contracts tribes can enter into and reducing the numerous and complex regulations which hinder economic growth.

Tribes have had limited opportunities to invest in their own economies because often there has been no established resource base for community investment and development. Many reservations lack a developed physical infrastructure including utilities, transportation and other public services. They also often lack the regulatory, adjudicatory and enforcement mechanisms necessary to interact with the private sector for reservation economic development. Development on the reservation offers potential for tribes and individual entrepreneurs in manufacturing, agribusiness and modern technology, as well as fishing, livestock, arts and crafts and other traditional livelihoods.

Natural resources such as timber, fishing and energy provide an avenue of development for many tribes. Tribal governments have the responsibility to determine the extent and the methods of developing the tribe's natural resources. The federal government's responsibility should not be used to hinder tribes from taking advantage of economic development opportunities.

The top Indian official in the Reagan Administration is Kenneth L. Smith, a Wasco Indian from the Warm Springs Reservation in Oregon. He is the Assistant Secretary for Indian Affairs in the Department of the Interior.

With regard to energy resources, both the Indian tribes and the nation stand to gain from the prudent development and management of the vast coal, oil, gas, uranium and other resources found on Indian lands. As already demonstrated by a number of tribes, these resources can become the foundation for economic development on many reservations while lessening our nation's dependence on imported oil. The federal role is to encourage the production of energy resources in ways consistent with Indian values and priorities. To that end, we have strongly supported the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.

It is the free market which will supply the bulk of the capital investments required to develop tribal energy and other resources. A fundamental prerequisite to economic development is capital formation. The establishment of a financial structure that is a part of the Indian reservation community is essential to the development of Indian capital formation.

Federal support will be made available to tribes to assist them in developing the necessary management capability and in attracting private capital. As a first step in that direction, we provided funds in the FY 1983 budget to provide seed money to tribes to attract private funding for economic development ventures on reservations. As more tribes develop their capital resource base and increase their managerial expertise, they will have an opportunity to realize the maximum return on their investments and will be able to share an increasing portion of the business risk.

It is the policy of this Administration to encourage private involvement, both Indian and non-Indian, in tribal economic development. In some cases, tribes and the private sector have already taken innovative approaches which have overcome the legislative and regulatory impediments to economic progress.

Since tribal governments have the primary responsibility for meeting the basic needs of Indian communities, they must be allowed the chance to succeed. This Administration, therefore, is establishing a Presidential Advisory Commission on Indian Reservation Economies. The Commission, composed of tribal and private sector leaders, is to identify obstacles to eco-

nomic growth in the public and private sector at all levels; examine and recommend changes in federal law, regulations and procedures to remove such obstacles; identify actions state, local and tribal governments could take to rectify identified problems; and recommend ways for the private sector, both Indian and non-Indian, to participate in the development and growth of reservation economies. It is also to be charged with the responsibility for advising the President on recommended actions required to create a positive environment for the development and growth of reservation economies.

Numerous federal agencies can offer specialized assistance and expertise to the tribes not only in economic development, but also in housing, health, education, job training, and other areas which are an integral part of reservation economies. It is to the advantage of the tribes, and in the interest of the taxpayers, that the federal role be fully reviewed and coordinated. Therefore, this Administration directs the Cabinet Council on Human Resources to act as a mechanism to ensure that federal activities are non-duplicative, cost effective, and consistent with the goal of encouraging self-government with a minimum of federal interference.

Summary

This Administration intends to restore tribal governments to their rightful place among the governments of this nation and to enable tribal governments, along with state and local governments, to resume control over their own affairs.

This Administration has sought suggestions from Indian leaders in forming the policies which we have announced. We intend to continue this dialogue with the tribes as these policies are implemented.

The governmental and economic reforms proposed for the benefit of Indian tribes and their members cannot be achieved in a vacuum.

This nation's economic health – and that of the tribes – depends on adopting this Administration's full Economic Recovery Program. This program calls for eliminating excessive federal spending and taxes, removing burdensome regulations, and establishing a sound monetary policy. A full economic recovery will unleash the potential strength of the private sector and ensure a vigorous economic climate for development which will benefit not only Indian people, but all other Americans as well.

Policy Highlights

President Reagan's Indian policy supports:

* Explicit repudiation of the termination policy and philosophy of the past.
* Fulfillment according to the highest standards of the Federal trust responsibility.
* Strengthening of tribal governments and a reduction of Federal regulations and bureaucracy on reservations.
* Specific acknowledgment of the governmental status of Indian tribes.
* Direct funding rights for block grants for the tribes.
* A Presidential Commission to seek ways to improve reservation economies.
* Special assistance for small tribes to help build managerial capacities.
* Seed money to attract funding for economic development projects on reservations.
* Coordination of Federal Indian programs through the Cabinet Council on Human Resources.

Choctaw Indians in Mississippi manufacture electrical wire harnesses for General Motors cars and trucks. The enterprise, started by the tribe in 1979, was successful in almost doubling its business and its plant in years when many manufacturers in the automobile industry were struggling just to keep open. The tribe has created more than 600 jobs on the reservation through the development of tribal enterprises.

Appendix III

Additional Material Submitted for the Record

America's Five-Year Offshore Leasing Plan—

Its Importance in Increasing Domestic Petroleum Reserves

The Role of Industry in Its Development and Implementation

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International Oil and Gas Education Center
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Introduction

The decision by the Reagan Administration to bring about a complete inventory of oil and gas resources and accelerate exploration and development on America's Outer Continental Shelf (OCS) during the five-year period 1982–1987 represents one of the most important and positive changes in energy policy to be experienced in the United States in decades.

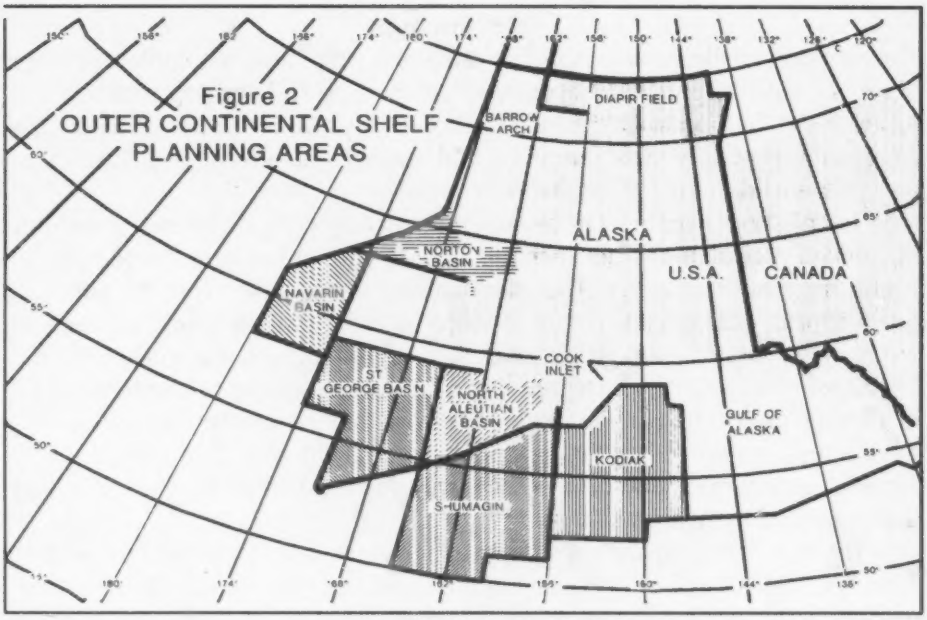
The offshore leasing plan became final in July 1982 after nineteen months of detailed consultations between the U.S. Department of the Interior and twenty-three affected states. The administrative record relating to the plan totals approximately 5,000 pages and also includes participation by local governments, environmental groups, industry, and the public. The effort has been described by Interior Department officials as "the most comprehensive, exhaustive project in the Department's history."[1] In the words of Secretary of the Interior James G. Watt, the new program "will enhance the national security, provide jobs and protect the environment while making America less dependent on foreign oil sources."[2]

The five-year program calls for forty-one lease sales to be held through June 1987. About one billion acres of offshore lands will be exposed for leasing during this period, although much less than this is actually expected to be leased. By area, the program calls for twelve offerings in the Gulf of Mexico, sixteen sales offshore Alaska, four off California, eight off the Atlantic Coast, and one reoffering sale. Figures 1 and 2 are maps which show the locations of the sale areas off the Lower 48 states and Alaska, respectively. Figure 3 lists the scheduled dates of each of the sales, including minor revisions which have been made in the dates of some of the 1982 and 1983 sales. The Central and Northern California Sale 73, scheduled for September 1983, is politically controversial and Congress has excluded funds for tracts north of Morro Bay from the Interior Department's budget for this year.

Figure 1

OUTER CONTINENTAL SHELF PLANNING AREAS

29-035 O—84——36



New Program in Historical Context

At the turn of the century, the first offshore wells were drilled off the California coast. They were located only a few hundred yards or so from shore and were drilled using conventional land rigs installed on wooden piers connected to shore. In 1927, the first well was drilled from a "marine" rig in the inland coastal waters of Louisiana. Since 1927, it is estimated conservatively that more than 12,000 wells have been drilled in the estuarine areas of Louisiana and Texas.

Industry moved into the Gulf of Mexico in 1937 as an extension of exploration and development drilling activities in the coastal wetlands of Louisiana. The first offshore well was drilled one mile from shore in eastern Louisiana. In the ensuing forty-four-year period through 1981, a total of more than 26,000 offshore wells has been drilled and more than 2,700 production platforms have been installed. Figure 4 is a table which shows on a state by state basis the total number of offshore wells drilled in the United States on federal and state leases from the inception of drilling to January 1, 1982.

The new five-year program represents a significant departure from past OCS leasing programs, which resulted in a total of only 2.5 percent of the entire federal offshore land base being leased over the past twenty-eight years. A year-by-year graphic analysis of offshore leasing in the United States is contained in Figure 5. Despite three decades of repeated congressional declarations concerning the urgency and national security importance of developing OCS oil and gas resources, until the Reagan Administration came into office the Federal Government had leased only about 22 million acres of offshore lands after offering about 50 million acres. Yet, from this 2.5 percent, oil companies produced more than 5.7 billion bbl of oil and 53.7 trillion cu ft

of natural gas through 1981. The Federal Government's cumulative revenue from this effort totals more than $55 billion. Opponents of the offshore leasing program often overlook the fact that in terms of benefits realized by American consumers and taxpayers, this is one of the most successful federal programs in our history.

Figure 3

FIVE YEAR OCS OIL & GAS LEASING SCHEDULE
Proposed Sale Dates

1982	1983	1984
RS-2 - August	69 Gulf of Mexico (Part II) - March	80 S. California - January
71 Diapir Field - October	52 North Atlantic - March	82 N. Atlantic - February
69 Gulf of Mexico (Part I) - October	57 Norton Basin - March	83 Navarin Basin - March
	70 St. George Basin - April	81 C. Gulf of Mexico - April
	76 Mid Atlantic - April	87 Diapir Field - June
	72 C. Gulf of Mexico - May	84 W. Gulf of Mexico - July
	78 S. Atlantic - July	88 Gulf of Alaska/ Cook Inlet - October
	74 W. Gulf of Mexico - August	89 St. George Basin - December
	73 C & N. California - September	
	79 E. Gulf of Mexico - November	

1985	1986	1987
90 S. Atlantic - January	95 S. California - January	108 S. Atlantic - January
85 Barrow Arch - February	96 N. Atlantic - February	109 Barrow Arch - February
92 N. Aleutian Basin - April	107 Navarin Basin - March	110 C. Gulf of Mexico - April
98 C. Gulf of Mexico - May	104 C. Gulf of Mexico - April	86 Shumagin - June
111 Mid Atlantic - June	97 Diapir Field - June	
102 W. Gulf of Mexico - August	105 W. Gulf of Mexico - July	
91 C. & N. California - September	99 Kodiak - October	
100 Nortor Basin - October	101 St. George Basin - November	
94 E. Gulf of Mexico - November		

Importance to the Nation's Economic Outlook and National Security

Continuing Dependency on Imports

Despite the temporary oversupply of oil and gas which currently exists, the future energy outlook of the United States basically remains unchanged from that of the 1970s, a period characterized by energy shortages which idled factories, closed schools, and left thousands of Americans sitting in gasoline lines. As was the case in the 1970s, the United States is still struggling to replace domestic reserves, to maintain current production levels, and to encourage conservation in an effort to reduce our dependence upon imports. Now, as then, an affordable and certain supply of energy is an inseparable key to economic growth, the harmonious development of national goals, and the maintenance of our national security.

Currently, one-third of the oil consumed in this country is imported from foreign sources. As recently as 1981, that figure was 40 percent. In the 1970s, we were nearly 50 percent dependent on imports. Progress has been made in reducing U.S. dependence on imports through increased domestic drilling and conservation, but, in spite of this progress, we remain vulnerable to Middle East supply disruptions. In order for this nation to continue checking and possibly reducing further its reliance upon insecure sources of foreign oil, it is imperative we go forward as rapidly as possible with the inventorying and development of our domestic resources.

U.S. Supply Outlook

Most credible studies currently available project energy consumption in the United States will grow by one percent per year between now and the year 2000[3], a projection significantly below historical levels.

Meanwhile, on the supply side, the message is very explicit. Imports will continue to be a major contributor to U.S. supply, with the actual extent of our dependency directly related to the level of domestic production. Forecasts conclude that the current level of oil and gas production can be maintained through the year 2000 and that the growth of imports can be curbed *if significant production from presently undiscovered reserves is brought onstream.*

In 1990, according to Shell Oil Company's projections, 22 percent of our domestic oil supply is expected to come from new discoveries, increasing to 45 percent by the year 2000. Those same projections indicate new discoveries will account for 36 percent of the U.S. domestic gas supply in 1990, increasing to 52 percent by the year 2000.

The maintenance of current production levels for the remainder of this century in the United States provides a real challenge for industry and Government alike. Industry must remain totally committed to the replacement of domestic reserves, and Government must make the necessary public policy decisions *now* to encourage new discoveries.

Today OCS oil and gas production represents 8 percent of total domestic oil production and 24 percent of domestic gas production. During the 1970s, despite rapidly increasing oil prices, OCS oil production declined significantly. In fact, the United States' share of worldwide offshore production shrank from 21.7 percent in 1970 to only 7.6 percent in 1980.

We are the only oil producing nation in the world to experience an offshore production decline during the past decade except Venezuela, where the decline

Figure 4

TOTAL NUMBER OF OFFSHORE WELLS DRILLED IN THE UNITED STATES*

Federal and State Leases
as of January 1, 1982

	WELLS		
	Exploratory	Development	Total
ALASKA			
State	80	281	361
Federal	19	-	19
	99	281	380
CALIFORNIA			
State	161	3185	3346
Federal	145	299	444
	306	3484	3790
OREGON			
Federal	8	-	8
WASHINGTON			
State	2	-	2
Federal	4	-	4
	6	-	6
FLORIDA			
State	15	-	15
Federal	9	-	9
	24	-	24
LOUISIANA			
State	977	2904	3881
Federal	3186	12134	15320
	4163	15038	19201
TEXAS			
State	762	252	1014
Federal	888	656	1544
	1650	908	2558
ATLANTIC STATES			
Federal	21	-	21
TOTAL			
State	1997	6622	8619
Federal	4431	13138	17569
	6428	19760	26188

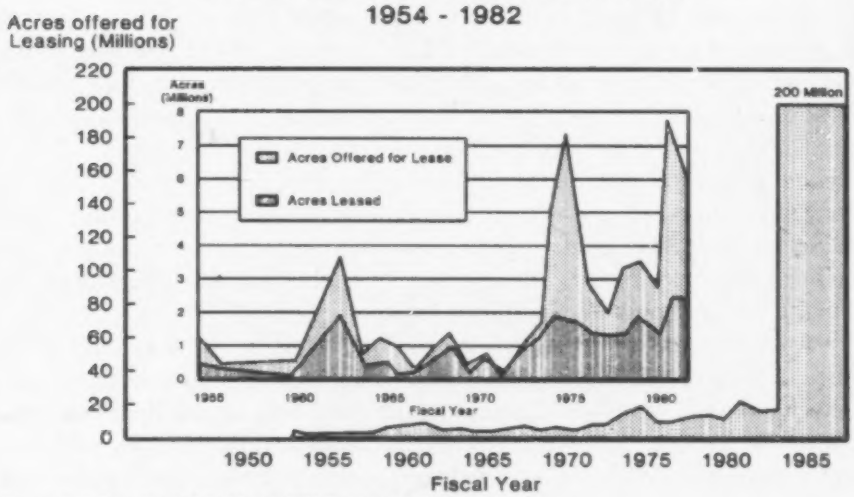
* Offshore wells are defined as those producing from beyond natural shorelines

Source: American Petroleum Institute

Figure 5

FEDERAL OFFSHORE LEASING

1954 - 1982



Source: U.S. Department of the Interior 1982 Report to the President, "A Year of Progress : Preparing for the Twenty-First Century"

is explained by the maturing of Lake Maracaibo as an oil province. While U.S. OCS production was declining, other countries were following leasing policies which encouraged offshore exploration and advantageously resulted in major new finds in a time of rising prices.

The decline experienced in the United States resulted not from a lack of resources, but rather from a lack of will to develop those resources. The five-year offshore leasing plan restores that will. Industry and Government estimates of future domestic oil and gas discoveries to be made offshore range from 59 percent of oil and 36 percent of gas to as high as 60 percent of the total oil and gas. Clearly, the offshore offers the greatest potential for increasing domestic energy supplies, supplies which are critically needed for our strategic and economic security. Thus, it is no exaggeration to characterize the five-year plan as one of the most critical and pivotal public policy decisions affecting America's future energy supply to be made in decades.

Need for New Finds

The five-year program is intended to provide industry with access to areas in which new discoveries are possible. It must make up for our failure to increase leasing in the 1970s, when rapid oil price increases created so many new opportunities for finding economic resources, and it must not put undue constraints on industry's ability to determine optimum exploration strategies. This is particularly important when all sectors of the economy are experiencing cash flow problems. With less money to allocate to exploration, it becomes even more important that the money available is spent on the most promising prospects. By exposing entire planning areas for lease, the new program will allow companies to determine the focus of their exploration efforts. It will also pro-

vide access to the most promising areas of the OCS, such as those in Alaska, early in the schedule. A report published recently by the National Petroleum Council indicates that up to one half of the recoverable oil yet to be discovered in America may be found in the Arctic. That report further estimates the Arctic's undiscovered energy reserves to be 24 billion bbl of oil and 109 trillion cu ft of natural gas, stated in terms of a risked mean assessment. More than two thirds of these estimated reserves are assigned to Alaska offshore provinces.[4]

Urgency in Accelerating Schedule Now

Many individuals recognize the importance of the OCS leasing schedule to our energy future and national security, but fail to appreciate the sense of urgency, the need to move forward with an aggressive schedule now. Once again, the explanation and rationale are quite simple.

One does not obtain a lease one day and begin production the next. An offshore frontier area leased today can be expected to begin production in four to twelve years. For instance, a sale such as OCS Sale 71—in the Diapir Field in the Beaufort Sea off the North Slope of Alaska—could be expected to begin production in the 1990s. There are dozens of interrelated interim steps between the lease sale and actual production, provided, of course, that oil and/or gas are found in commercial quantities. Seventeen major permits or plan approvals must be obtained just to begin various exploration and development operations. All in all, the process is a lengthy, complex one involving scientists of many disciplines, numerous companies and private contractors, representatives of many departments of the Federal Government, state government officials, special interest groups, environmental studies, weather delays, and many other unforeseen variables and complications. It all takes time.

Support today of an aggressive five-year OCS leasing schedule is a positive commitment to ensuring this country's energy supply and national security in the 1990s and beyond the year 2000. Long lead times to production mandate that we proceed now without further delay.

Industry's Role in Supporting Program

Background of 1978 OCS Lands Act Amendments

The prolonged and heated debate over amendments to the Outer Continental Shelf Lands Act, which culminated in 1978, served as a catalyst in uniting the service segment of the offshore petroleum industry over a single political issue for the first time. The National Ocean Industries Association (NOIA), a national trade association based in Washington, D.C. which includes nearly 500 member companies active in all phases of offshore petroleum exploration and development, served as the focal point for the many large and small companies across America that provide supplies, products, and services used offshore. The extent of economic and geographic involvement in the OCS program surprised even the industry itself. The 1978 experience showed that billions of dollars in capital investment, hundreds of companies, and hundreds of thousands of jobs in more than forty states relate to the program.

Congress soon realized that offshore petroleum exploration and develop-

ment involves many more players than just the major oil companies and that it also affects the economies of more states than just the traditional oil producing states. Congressmen from midwestern states such as Ohio, where structural steel and pipe for offshore rigs are manufactured, woke up one morning to discover that their constituents too had an important stake in offshore development and were writing them letters about it.

For its part, the service industry learned during this period that it could be effective in communicating with Congress and the public about the importance of OCS development and that it still had much unrealized potential in this regard. The credibility with which the service industry seemed to be received on Capitol Hill increased the industry's self-confidence and encouraged it to organize better and strengthen its trade associations for future endeavors.

The 1978 amendments to the OCS Lands Act included an amendment to Section 202(3) which reads:

> "The Outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs."[5]

Also, a new Section 18 was added to Section 208 of the Act[6] calling upon the Secretary of the Interior to prepare, periodically revise, and maintain an offshore leasing program consisting of "a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval."[7]

During preparation of the leasing program, the Secretary invites and considers suggestions and comments from other interested federal agencies, the Governors of affected states, and, if he so desires, executives of affected local governments. The program is also submitted to the President and Congress with comments received. Congress thus has the opportunity to review the five-year plan by the specific authority contained in Section 18, as well as by oversight authority. Industry has opportunities to provide input into the process in *both* the executive and legislative branches.

During most of the 1970s, the Interior Department leased an average of only slightly more than a million acres a year. The Carter Administration was the first to begin drafting a five-year schedule, as called for by the 1978 OCS Lands Act Amendments, and even with its protectionist disposition, called for leasing 6 to 7 million acres a year.

During the two years following enactment of the OCS Lands Act Amendments, industry representatives testified several times in congressional oversight hearings called to evaluate progress made in implementing the leasing program.[8] The message generally conveyed was that the program was bogged down and not moving fast enough. Industry sensed a lack of balance between environmental and developmental concerns. Not enough attention was being paid to the national objective of increased energy self-sufficiency. In Senate testimony delivered on the nomination of James Watt to be Secretary of the

Interior, an offshore industry witness supporting Watt's nomination and advocating change said:

> "To sum it up, the Administration during the past four years has adopted what is practically tantamount to a zero risk approach to OCS management. That is to say if there is any *possibility* at all that the marine environment *could* be adversely affected by a proposed activity, that activity should either be outright prohibited or regulated by requiring extensive and nearly unlimited mitigation measures. The cumulative effort of these policies has been the *discouragement* rather than *encouragement* of balanced multiple uses of the marine environment."[9]

It was against this background that the Reagan Administration came into office after the 1980 elections determined to accelerate offshore petroleum exploration and development in the national interest. Secretary of the Interior Watt saw his role as one of ensuring

> "common sense, balanced perspectives in managing lands and waters subject to the multiple-use concepts which have been hammered out by Congress. We can have reasonable development of our energy resources and preserve our natural environment, if we are given an opportunity to phase in, with proper safeguards, the expansion being demanded by the nation."[10]

The service industry welcomed the breath of fresh air blowing through Washington and was prepared to respond.

Need To Speak Out

Strong support from the U.S. petroleum industry is imperative if the five-year offshore leasing program is to remain on schedule. Given the anti-oil industry sentiment which prevailed while the Carter Administration was in office, some industry leaders have continued to withhold vocal support of important Government policy and program changes on the assumption that oil industry support expressed publicly might mean the "kiss of death" and, therefore, be counterproductive. As Edmund Burke once said, "There is, however, a limit at which forbearance ceases to be a virtue." The public actually seems to be taking a more realistic approach to this and many other issues these days. In fact, the public's opinion of offshore petroleum development may not be what critics of the program would lead us to believe. For example, the June 29, 1981, edition of *Newsweek* contained a Gallup Poll which showed that:

> More than 75 percent of the American people believe it is possible to maintain strong economic growth in the United States and still maintain high environmental standards.
>
> More than 76 percent of those polled favor increasing oil exploration and other commercial uses of federal lands.
>
> More than 70 percent of the American people favor enlarging the area of offshore oil drilling on the East and West Coasts.

Regardless of trends, both Congress and the American public have the ability to formulate valid opinions and reach correct conclusions when they are armed

with all the facts. However, this can only come about if individuals having the relative expertise and experience are willing to speak out. As far as the five-year offshore leasing program is concerned, that means all segments of the offshore industry—producing companies and service companies alike. More of us in business need to speak out, testify, write, and otherwise defend and support the expanded lease sale program in our own economic self-interest, as well as in the nation's interest. The United States dominates the world as the leader in offshore drilling technology. Some of the recent advances in deepwater and severe environment exploration rival, in terms of technical achivement and man's imagination, similar advances made in space exploration, yet far fewer people know about them. We need to do a better job of getting this story out. It was Winston Churchill who said, "Unless the intellect of a nation keeps abreast of all material improvements, the society in which that occurs is no longer progressing."

Industry Readiness

Capital, Manpower, and Equipment

Upon the announcement of the draft five-year plan by the new Interior Department management team in 1981, the Administration came under heavy criticism from a minority group of environmental organizations, coastal states which wanted the Federal Government to maintain a slow speed in offshore leasing, and a few congressmen who were also sympathetic to going slowly. Among the reasons cited by these critics were contentions that the American offshore petroleum industry was not prepared for accelerated leasing in terms of capital, manpower, and equipment. The service industry quickly went into action to disprove these arguments.

One of the first opportunities came in May 1981, when a panel of witnesses representing various segments of the offshore industry appeared in oversight hearings before the House Subcommittee on the Panama Canal/Outer Continental Shelf to make the case for accelerated leasing and industry readiness for a much more aggressive offshore exploration program. In all segments of the industry, it was felt, a reliable five-year schedule would add more predictability to the process and provide more incentive for the large scale capital investments which characterize expansion in the offshore industry. Indeed expansion was already under way. "There is a tremendous amount of offshore drilling equipment under construction at the present time, and there are going to be more commitments made." It was pointed out that the shipbuilding industry had the capability to build 80 to 100 additional rigs a year if needed. The witnesses expressed confidence that enough trained manpower would be available for the skillful operation of all the new equipment.[11]

In July 1981, NOIA held a press conference in Washington, D.C., following a meeting between five oilfield service industry leaders and Secretary Watt on the subject of industry readiness. It was reported that a 50 percent expansion of the world offshore drilling fleet was in process, with more than 300 rigs to be constructed from 1981 to 1985 at a total capital construction cost in excess of $12 billion. The U.S. geophysical exploration fleet was also expanding by

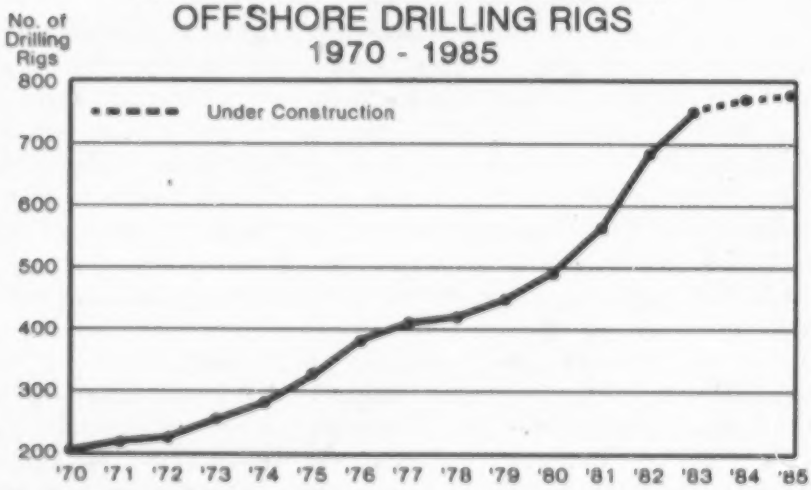
more than 40 percent with more than $100 million of investment in new vessels. Likewise the offshore supply vessel industry had more than $800 million in new ships scheduled for completion before the end of 1983. A representative of the petroleum equipment suppliers demonstrated their capability to provide enough drilling tools and tubular goods for accelerated offshore exploration, and the marine construction industry showed that it had excess capacity and could respond readily to any increased demand for production platforms and pipelines. Statistics were also presented on job training in the offshore industry. For example, it was reported that during the previous ten years, while the number of active U.S. offshore rigs had increased from 81 to 260, or threefold, the number of drilling crews had increased from 250 to 1,040, or fourfold. Company and industry trade association sponsored training programs were answering the challenge of providing the additional manpower required for accelerated exploration. At the conclusion of the press conference, one of the NOIA spokesmen said:

> "In summary, we are experiencing today an unprecedented boom in the construction of seismic vessels, oilfield service vessels and drilling rigs, and we are making tremendous strides in the technological development and manufacturing capacity of equipment and services used in the offshore petroleum industry. There is absolutely no question the oil service industry can meet the challenge of the accelerated leasing program, and with the program will come a major economic and employment boom which will boost many sectors of U.S. industry."

In the months following the July 1981 press briefing, industry representatives presented similar data in testimony before Congress and the Interior Department's Outer Continental Shelf Policy Committee.[12] When the revised

Figure 6

GROWTH IN TOTAL NUMBER OF OFFSHORE DRILLING RIGS 1970 - 1985



Source: Offshore Rig Data Services

final five-year plan was announced by Secretary Watt in July 1982, a second press briefing was held, by the same group of industry leaders, in Seattle, supporting the new program and updating the information distributed the previous year. Considerable press coverage followed in both the general press and the trade press. Questions raised about industry's access to capital for bonus bidding seemed to be answered by the large amounts bid in the 1982 lease sales.

Figure 6 shows the dramatic increase in the number of mobile offshore drilling rigs which has occurred during the past few years, the period during which critics continued to say "it couldn't be done."

Figure 7

WORLDWIDE MOBILE OFFSHORE RIG SURVEY

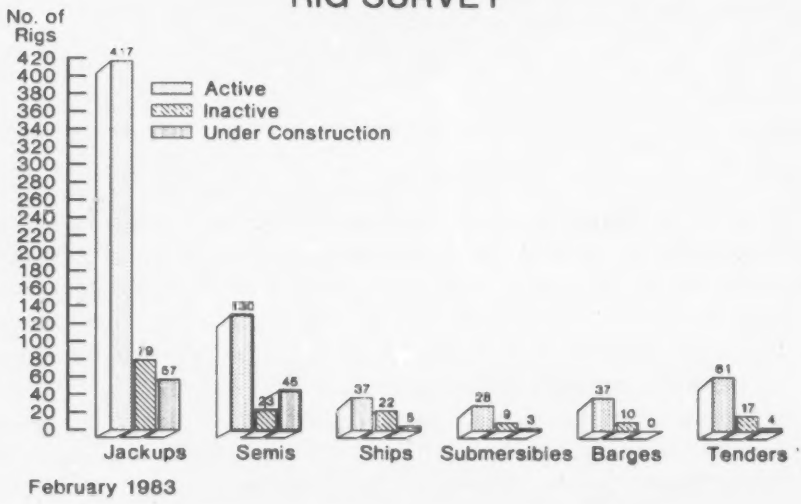


Figure 7 is a bar chart illustrating the number of mobile offshore drilling rigs available on a worldwide basis as of January 1983. The figures presented in this chart are broken down according to the type of rig and by status—active, inactive, or under construction. The total number of rigs shown does not include approximately 140 additional units which do not compete in international markets because they are owned by foreign national oil companies or otherwise have a dedicated use.

Figure 8 is a table showing mobile offshore drilling units currently under construction by geographical area and rig type.

As the facts relating to industry capital, manpower, and equipment were disseminated into the public domain, the critics who had argued that the offshore industry was not prepared for accelerated leasing became quiet while they searched for new arguments and perceived weaknesses in the five-year program.

Technological Capability for Drilling in Hostile Environments

While critics of the five-year plan finally have given begrudging recognition to

Figure 8

MOBILE OFFSHORE DRILLING UNITS
UNDER CONSTRUCTION

DELIVERY YEAR	JACKUPS	SEMIS	SHIPS	SUBMERSIBLES	TENDERS	TOTAL
1982	11	7	2	0	0	20
1983	31	31	3	3	4	72
1984	11	5	0	0	0	16
1985	4	2	0	0	0	6
TOTAL	57	45	5	3	4	114

AREAS OF THE WORLD

LOCATION	JACKUPS	SEMIS	SHIPS	SUBMERSIBLES	TENDERS	TOTAL
Canada	3	1	0	0	0	4
USA	16	1	0	3	0	20
S America	7	0	0	0	0	7
North Sea	1	6	3	0	0	10
Europe	7	10	0	0	0	17
Africa	3	0	0	0	0	3
S E Asia	9	4	2	0	2	17
Far East	11	22	0	0	2	35
USSR	0	1	0	0	0	1
TOTAL	57	45	5	3	4	114

February 1983

the abundance of offshore industry manpower, equipment, and supplies necessary to meet the demands of an accelerated leasing program, one question which they continue to raise is "Does the industry have the technological capability to meet the rigorous demands of petroleum exploration in hostile environments?" and, particularly, "Can the industry deal with the extreme wave, wind, temperature, and ice conditions encountered in Alaska?"

The answer to these questions is a resounding "yes." Most of the areas to be explored under the five-year plan are within the capability of existing equipment. Furthermore, now that the five-year schedule has received final approval, companies have been able to get a better fix on lease sale dates and thus on the probable timing of exploration activities. As a result, investment commitments are following in research, design, and construction of mobile offshore drilling units for those unique areas where new technology will be called for.

Much of the technology needed for the offshore frontier areas in Alaska has its foundation in what we have already learned from operating in the North Sea, Alaska's Cook Inlet, the Gulf of Alaska, eastern Canada, the Canadian Arctic, and other areas. In fact, petroleum operations are feasible in lease sale areas in the Bering Sea, such as the Norton, St. George, and Navarin basins, with presently available technology. Existing jack-up drilling rig technology may be used within seasonal limitations in the Bering Sea in water depths generally under 300 ft in Norton Sound, the North Aleutian Basin, Cook Inlet, and even part of the St. George Basin. In deeper waters, such as in the Navarin Basin, existing semisubmersibles and drillships can be used. At the same time, various contract drilling companies are proceeding with construction plans for new and heavier semisubmersible units and jack-up rigs for drilling in more severe environments, including Alaska.

Farther north in the Beaufort and Chuckchi Seas, where severe sea ice

conditions dominate and a year-round cover of multiyear ice may be encountered, it is likely that gravel islands will be used up to their economic water depth limit of 60–100 ft. Newly designed gravity-based structures will be used to support drilling and production facilities in deeper waters down to about 200 ft. Numerous designs for these structures have been developed, and construction should soon follow.[13]

Deepwater Drilling and Production Capability

Certain lease sale areas included under the five-year plan, particularly those in the Atlantic, are characterized by water depths of more than 2,000 m (6,256 ft). Some critics of the program have raised questions about industry's ability to venture into these areas. Both the Interior Department and the offshore petroleum industry are of the opinion that sufficient capability exists, or can be developed in a timely manner, to justify including in the program tracts in waters deeper than 2,000 m.[14] However, they have had to dispell the notion that because exploration and production in such water depths has not yet occurred, the technology therefore does not exist for such activities.

While it is true exploration has not yet been conducted in water depths beyond 2,000 m, it is also true that until very recently there has been no deepwater leasing in the United States, and thus no opportunity for drilling and proving deepwater technology.

Figure 9

WATER DEPTH RECORDS FOR DRILLING OPERATIONS

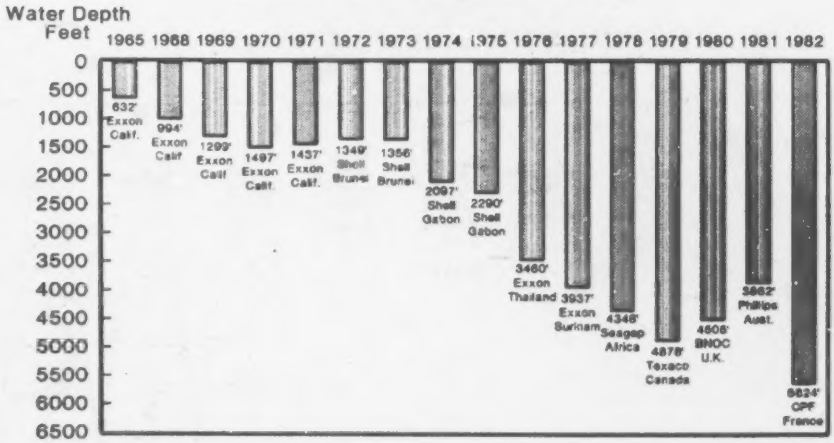


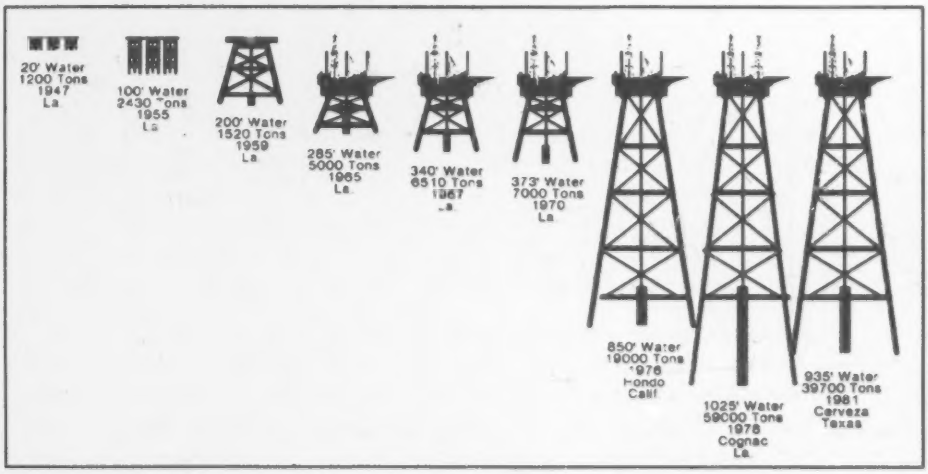
Figure 9 shows worldwide drilling water depth records for the years 1965 through 1982, culminating with a record water depth of 5,624 ft. Through 1981, sixty-seven wells were drilled in water depths greater than 2,000 ft. At least twenty-four rigs in the world fleet today are capable of drilling in over 2,000 ft. Of these, four can drill in 6,000 ft of water. Prior to the introduction of floating drilling units in 1953, 100 ft was regarded as a water depth barrier; then 600 ft

was regarded as a barrier for several years. In 1974, the deepwater drillship *SEDCO 445* extended the limit to 4,500 ft; and in the late 1970s and early 1980s, newer ships, such as the *Discoverer Seven Seas*, which drilled the world record well offshore France recently, have increased the limits even further. This certainly illustrates the rapid evolution of deepwater capabilities which is possible when the need exists and when there is both economic incentive and access to public lands lying under deeper waters.

Industry's capability to drill exploratory wells at great water depths is well recognized, but production experience at these depths has yet to be obtained because there have been no commercial discoveries to justify installations. However, over the last several years the petroleum industry has invested millions of dollars in designing equipment, developing analytical tools, performing model tests, and conducting full-scale field tests in preparation for drilling wells and producing oil and gas in great water depths. Rapid progress is occurring with respect to both platforms and subsea systems, the two major types of production technology.

Nearly all offshore fields to date have been developed using fixed-leg platforms. Figure 10 shows how these have evolved to meet the needs of deepwater locations in the United States. The size of Shell Oil Company's Cognac Platform in the record water depth of 1,025 ft is approaching the economic limit for fixed-leg structures due to the very large amount of steel required and the limitations of fabrication and installation methods. This is why the industry is now working on alternative concepts, such as guyed towers and tension-leg platforms, to extend water-depth production capability.

Figure 10
U.S. PLATFORM MILESTONES



Subsea systems also hold much promise for deepwater production. In these systems, wells are drilled from a floating rig, with subsea trees being

installed on the ocean floor. Production is routed to a fixed or floating platform. About 200 wells have been completed on the seafloor since 1960, with nearly all these wells producing through flow lines to nearby platforms. Experience with them has been very favorable. There have been no significant pollution or other unsafe incidents, even though some subsea wells have produced for more than sixteen years.

The oil industry has always been able to develop required technology to meet the needs that have arisen from lease offerings and hydrocarbon discoveries. Because of the actual experience and research work we have already accumulated, deepwater drilling should be no exception. Politics, geology, and economics, not technology, will limit deepwater development. Again, because of our long term energy needs and the long lead times involved in development, the United States should make those opportunities available as other countries have and proceed to lease deepwater tracts on the OCS.

Continuing Controversial Issues

For the five-year program to remain on track, the petroleum industry must remain on constant watch and be prepared for involvement in the debate over several additional controversial issues that critics are likely to raise as they probe for perceived weaknesses in the program.

Environmental Protection

The most emotional issue concerned with offshore oil exploration is, of course, the perceived threat to the coastal environment posed by oil spills. The facts show that the environmental record of the offshore petroleum industry is an exceptional record of which we can be proud. Moreover, the five-year offshore leasing plan has been crafted in such a way as to provide for careful and continuing protection of the environment. We must do a better job of communicating this to Congress and the American public.

During the past thirty years, more than 26,000 oil wells have been drilled in U.S. waters. We are now drilling more, at the rate of 1,000 a year. Despite this increasing level of activity, there has been only one major U.S. spill that reached the shoreline in any significant amount during the last three decades. That was in 1969 in the Santa Barbara Channel. No permanent damage resulted from that spill, although the oil industry has had to live it down for fourteen years now.

Today, the record of the offshore industry is excellent. During 1980, for example, only two spills of more than 50 bbl occurred within U.S. Outer Continental Shelf waters from all types of operations, one of which involved 135 bbl of oil. During 1981, the maximum size of a spill was 83 bbl. The next largest spill was 50 bbl. Since the Santa Barbara incident in 1969, more than 4 billion bbl of oil have been produced from U.S. offshore areas, and only 791 bbl have been lost due to blowouts.[15]

In the U.S. Coast Guard's 1981 annual report to Congress on the administration of the Offshore Oil Pollution Compensation Fund, established by Title III of the OCS Lands Act Amendments of 1978, it was reported for the third consecutive year since the fund was established that no actual federal cleanup or

removal activity costs were incurred and no damage claims were made against the Title III fund.

Advances in technology, better industry practices, and strict government regulations all have made it possible to drill offshore while minimizing the risk of pollution. The law permits the Interior Secretary to stop activities at any stage of the process if he is not satisfied with protection afforded the environment.

A much greater environmental danger to the coastline of America is posed by the threat of oil spills from tankers carrying imported crude oil. This should be a further incentive to develop our domestic offshore petroleum resources.

The new five-year program provides comprehensive and continuous environmental assessment at every stage of the leasing process. After the initial acreage selections are made, the Department of the Interior will prepare an exhaustive environmental impact statement (EIS) to determine if it is appropriate from an environmental perspective to lease those particular areas. Only after it is determined that all conditions are met for proper protection of the environment will the lands actually be offered for lease. Preparation of OCS environmental impact studies is a cumulative process. Through the end of 1982, the Interior Department's OCS environmental studies program had spent $320 million developing cumulative information and data which will be available for use in future EISs. The scope of this material is clearly reflected in the fact that during 1982, EISs were issued on areas comprising approximately 556 million acres.

In the past, EISs were prepared for specific sale areas. One of the significant changes in the new five-year program is the preparation of areawide EISs. The advantage to the new approach is that the studies will present an impact analysis which considers that the entire oil and gas resources in the planning area might be leased. This presents a more accurate view of the potential cumulative impacts of OCS development. Of course, cases based on a presumption of less than total development are also considered. Second and subsequent EISs can incorporate the first by reference and focus the environmental analysis on only those potential impacts that, in light of newer information, may have changed.

After the environmental analysis has been done to determine whether the lands can be offered for lease and after the lease has been issued, existing regulations require seventeen major permits or plan approvals just to begin various exploration and development operations. Two of the plan approvals include thirty-two separate elements related to safety and environmental protection.

An oil spill contingency plan must be submitted by every lessee as part of its exploration plan and production and development plans. These plans are reviewed pursuant to a Memorandum of Understanding between the Department of the Interior and the U.S. Coast Guard and are evaluated on the basis of jointly agreed upon criteria, including risk analysis, recovery equipment, equipment availability, response time, drills, support vessels, and dispersant equipment. The contingency plan must be approved before operations can begin. Oil spill skimmers are located in every geographical area where drilling is taking

place, and every drilling rig is required to have response equipment nearby.

Other regulations provide specific details for other safety programs, including requirements for plugging and abandoning wells to prevent leaks, requirements for safety systems to be installed on production platforms, spill prevention measures, and safety devices to be used on all lease/unit pipelines. There are specifications for the training of all personnel working in drilling operations on the OCS.

After permits are issued and exploration and development activities are started, each facility on the OCS is inspected on a scheduled and nonscheduled basis. The Interior Department's inspectors are authorized to suspend, and even prohibit, further operations in the event they find violations of regulations that present immediate danger of irreparable harm to life or property.

It is obvious that a tremendous amount of government and industry time, money, and manpower is being devoted to environmental regulation on the OCS. A 1975 study by the National Academy of Sciences[16] confirms that offshore oil and gas operations are a very minor source of oil pollution in the world's oceans. According to that study, only 1.3 percent of this pollution comes from offshore drilling and production. By contrast, nearly 35 percent comes from marine transportation. Ironically, OCS oil and gas exploration is clearly *the* most regulated activity of any of the potential contributors.[17] In fact, some contributors are not regulated at all. One cannot help wondering how or why our society arranged its priorities to be so out of touch with reality.

Threatened and Endangered Species

Concerns over endangered whales and threatened species, such as sea otters and seals, affect offshore leasing in a variety of ways. Such concerns have been responsible for withdrawal of lands available for exploration through the designation of Marine Sanctuaries, delays in lease sale dates, the deletion of tracts from sale areas, and the imposition of costly lease stipulations which restrict the time and manner in which offshore exploration activities can be conducted. Once established in the leases covering one sale area, these stipulations have a way of turning up in leases for following sales in the same region, even though the factual circumstances may be somewhat different.

We all share the desire to protect these unique creatures for what they mean to native subsistence hunters in Alaska and for the pure enjoyment of them as fascinating members of the marine wildlife community. No one will disagree that they are part of the natural heritage we all want to hand down to our children and grandchildren.

However, industry has an obligation to make certain that the findings regarding threatened and endangered species are based on facts and not emotions. We have a definite role to play in determining where additional research activities may develop more comprehensive and precise data on these species and their potential interaction with OCS oil and gas operations. The Alaska Oil and Gas Association and individual oil producers in Alaska have already had extensive involvement in wildlife studies and assessments in that state as the result of the Trans-Alaska Pipeline project and petroleum development on the

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North Slope. More involvement, particularly in Alaska and California, will be necessary during implementation of the five-year plan. One industry group is currently considering funding further research on the sea otter in California. Also, during 1982 an interindustry task group on the bowhead whale was organized for the purpose of sharing information on the scientific, public policy and operational issues relating to this species and of serving as a vehicle to coordinate the development of solutions to problems encountered and plans for action. This task group could well serve as a model for the kind of coordinated system industry must develop if we are to help federal and state policymakers arrive at rational and realistic decisions.

Fair Market Value of OCS Leases

Certain opponents of offshore petroleum development have criticized the five-year plan claiming that, because of the sheer magnitude of the program, the Government will not receive fair market value for the leases. Similar criticism has been leveled at federal leasing practices in the past. The concerns are unfounded, but must be addressed factually to avoid further disruptions in the timely discovery and development of our nation's offshore oil and gas resources.

The concept of "fair market value" has its source in Section 18 (a) (4) of the OCS Lands Act, which reads, "Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government."

This mandate leaves to the discretion of the Secretary of the Interior the means whereby fair market value will be secured. Even a cash bonus bidding system is not required. Section 8 of the Act specifies seven possible bidding systems, including work commitment bids in combination with either fixed or sliding scale royalties. However, none of the bidding systems is mandatory. The law does not require the Secretary to assure receipt of *maximum* dollar return.

But what concept should guide the Secretary in determining "fair market value" in the awarding of OCS leases? A traditional and commonly accepted view of "fair market value" is the price at which a property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

In the OCS leasing program, the market value of the tract depends on the oil and gas prospects of the tract, the expected prices of oil and gas at the time any hydrocarbons found on the tract are produced, the costs of operations associated with the tract, the supply of leases and substitutes, and the financial, market, and technological characteristics of potential bidders. The market value of a tract is not the market value of the oil and gas eventually discovered or produced on it. Instead, it is the value of the right to explore, develop, and produce the tract if there is a discovery, subject to a wide array of constraints. Therefore, the market value of a tract is its value at the time it is offered and not necessarily the value of the lease at a later time.

Federal OCS revenues are in the form of cash bonuses, royalty payments, taxes and rental payments, the latter being only a minor contributor. According to the Department of the Interior, as high as they may seem, lease bonuses

historically have made up only about 25 percent of the total income received by the Federal Government from OCS activity. Most of the remaining 75 percent comes from royalties and taxes.[18] OCS Sale 71 in the Beaufort Sea, held in late 1982, is a good example which illustrates the comparative importance of royalties and taxes to the Federal Treasury over that of bonuses. Total high bids in OCS Sale 71 were $2 billion. The Department of the Interior estimates the resource potential of the lands of that sale could produce royalties of about $12 billion and taxes of about $5 billion. Thus, Interior anticipates $6 in royalties during production for every dollar of bonus bids and more than $2 in taxes for every dollar of bonus bids.[19] Therefore, while lease bonuses are an important revenue source, the greater benefit to the Federal Treasury is to be realized from the increased royalty and tax revenues generated by accelerated leasing. One may be certain the Reagan Administration's Office of Management and Budget (OMB) has this in mind as it strives for a balanced budget. After the Internal Revenue Service, the OCS program represents the largest single source of revenues the Government has.

Interior Department data shows that, through 1981, the Federal Government, in the form of royalty, bonus and rental payments, has received 62 percent of the total revenue derived from the OCS, $51 billion out of a total of $82.9 billion. According to company estimates, industry expenditures for geological and geophysical work, exploratory wells, platforms, development wells, pipelines, and operating costs have far exceeded the $32 billion difference between total revenue derived and Government take. In other words, industry as a whole is in the red on a cash position basis, even before federal income tax is taken into account. Faced with this fact, critics allege that industry, however, will get its reward from future production of current reserves. Let us hope that is true and industry gets out of the hole with a reasonable return on past investments so additional capital will be available for future OCS projects. Government studies suggest the industry rate of return will probably be in the range of 9 to 11 percent before federal income tax.[20] Although precise numbers are not available, obviously industry's after-tax return is substantially less. It goes without saying that it must be much better than that to be an acceptable commercial investment. Under the new five-year program, the Government proposes to increase the minimum bid per acre from $25 to $150 to help assure receipt of fair market value on the many tracts with modest prospects that will be included in the larger sales to be held. In addition, the new plan calls for a shift away from presale tract evaluation to postsale tract evaluation in order to reduce the total tract evaluation effort by eliminating work on tracts that do not receive bids. A three-phase screening process will reduce the extent of tract evaluation by using a sampling approach and relying more on competition.

The old system of basing fair market value on the Government's perception of the worth of a wildcat prospect does not acknowledge the realities of exploring for oil and gas. The worth of any particular wildcat tract is determined largely by subjective interpretations of uncertain indirect data which can legitimately vary over a wide range according to the views of individual interpreters, including the Government. This is evidenced by the wide range of bid values

on tracts in past sales. The Government's estimate of the worth of a prospect is no better or worse than the estimates of competent industry evaluators. Under these circumstances, market forces are the only real means of determining fair market value. Past reliance on only the Government's evaluation for assuring receipt of fair market value has probably delayed production from the OCS with a consequent delay of payments of royalties and bonuses to the public treasury.

One of the most attractive elements of the new program is the regular repetition of whole area sales every one or two years. The history of oil and gas exploration contains many examples of years of unsuccessful drilling in a region, followed suddenly by a major commercial find. Prudhoe Bay in Alaska, the Hibernia Field on the east coast of Canada, and the North Sea are all examples of this scenario. The periodic reoffering of tracts not previously leased will allow market values of these tracts to take into consideration new exploration information as it develops. Should there be promising discoveries, American taxpayers will be in a position to benefit. Note the record-breaking bids for the southernmost tracts in OCS Sale 53 in California based on drilling just a few months earlier on adjacent Sale 43 leases. By the same token, an operator whose dry holes provide clues to a possible oilfield on adjacent, unleased tracts can quickly divert his efforts to the more promising area.

The Government's new lease evaluation procedures and the schedule of lease sales itself permit market forces to play a greater role in determining lease values. This is workable and necessary given the scope of the new five-year program and will assure that American taxpayers continue to receive fair market value for OCS leases in the future.

Need to Expand Industry Efforts to Affected States

While some of the major oil companies have involved themselves in communications efforts in the states, the oilfield service industry has concentrated more on Washington. In view of the important role the states play and the effect they could have on the five-year schedule, it behooves the service industry to become more involved in communicating with state officials, interest groups and the citizenry in general about our technical capabilities and ability to drill safely in a manner which is compatible with other uses of the marine environment. In addition to being in the best interest of the nation as a whole, offshore exploration and development means jobs and increased tax revenues for local communities. It is particularly important to communicate this message in California and Alaska, where a large percentage of future offshore lease sales will be held.

States' Role in Federal OCS Process

Both the OCS Lands Act Amendments of 1978 and the Coastal Zone Management Act of 1972, as amended,[21] have dramatically increased affected states' participation in OCS oil and gas leasing, exploration, and production.[22] The states are furnished with information relating to OCS activities, and they participate in policy and planning decisions "to the extent consistent with the national interest."[23]

The Coastal Zone Management Act provides that:

"Each federal agency conducting or supporting activities *directly affecting* the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, *consistent with* approved State management programs." (Emphasis added)[24]

The above-emphasized words have been the subject of controversy between some of the more militant states and the Federal Government over OCS policy.

California, in particular, has taken the position in litigation that OCS lease sales are subject to the federal consistency requirement on the premise that the sales themselves "directly affect" the coastal zone. On the other hand, the U.S. Department of the Interior, supported by the petroleum industry, has taken the position that the sales are not subject to consistency determinations because they do not directly affect the coastal zone. It is only the exploration activities which follow a lease sale which may affect the coastal zone. Too many subsequent decisions involving discretion on the part of the leaseholder and federal and state agencies must be made before the coastal zone can be affected.

In *California vs. Watt*,[25] the U.S. Court of Appeals for the Ninth Circuit upheld the State of California's contention that OCS Lease Sale 53 did "directly" affect the California coastal zone, and the sale could not proceed until the Secretary of the Interior made a determination that the proposed lease sale "is consistent, to the maximum extent practicable, with the California coastal zone management plan." At the same time, the court held that it is the executive branch of the Federal Government, through the Secretary of Commerce, which has the final authority to determine whether the activity is consistent "to the maximum extent practicable" or is otherwise necessary in the interest of national security. In a sense, both sides won something in this case. Nevertheless, the Federal Government has applied to the Supreme Court of the United States for a writ of certiorari, and that Court could ultimately determine whether the states should be even more involved in the "presale" phase of OCS leasing and exploration activities.

Regardless of the outcome, in the "postsale" phase of the OCS process, the states have many other opportunities to use their consistency club. Under the 1978 OCS Lands Act Amendments, lessees and operators are required to submit an exploration plan prior to commencing exploratory activities under a lease, and the Department of the Interior must act on it within thirty days from submission. However, even though the plan may be approved within that time frame, no "license or permit for any activity described in detail" in such plan may be granted where an affected state has an approved coastal zone management plan unless the consistency requirements have been met.

Upon making a discovery in a region other than the Gulf of Mexico, and prior to proceeding with development activity, a lessee or operator is required to file a development and production plan. If approval thereof does not require an environmental impact statement, any affected state (and local government) has sixty days to review and comment on the plan, and the Interior Department must act on the proposed plan within another sixty days. However, again—

even though approval may be conferred within the time frame allowed—no license or permit may be issued for any activity called for where an affected state has an approved coastal zone management plan unless and until consistency certification has been obtained or if the state is conclusively presumed to concur with the consistency determination.

Increased Communication and Education to Achieve Accommodation and Progress

All these state approvals afford many opportunities for delay. We in industry must do everything in our power to help affected states better understand offshore oil and gas operations and the potential impacts on coastal areas as we see them. Improved communications and sharing of knowledge among various interest groups can go a long way toward achieving more harmonious development of critical natural resources while at the same time providing the necessary protections for living marine resources and the scenic coastal environment of states such as California and Alaska. As with so many other endeavors in our society, simple fear of the unknown can retard progress. Governor William Sheffield strikes the theme of accommodation when he invites industry "to walk the beaches of Alaska" with him to exchange information and concerns with native groups, fishermen, sportsmen and other interested parties. As individual companies and through our trade associations, we must extend ourselves to these states and localities to bring about the education and resolution of unknowns which are necessary to achieve accommodation and progress.

Industry Support for Federal Revenue Sharing

Most of the principal petroleum industry trade associations are on record as being in favor of the Federal Government sharing part of the revenues it receives from petroleum exploration and production on federal offshore lands with affected coastal states.

Currently, states share in 50 percent of royalty payments on federal leases *onshore*. In addition, federal payments are made to states in lieu of taxes to compensate for the loss of property taxes resulting from federal ownership of land within state borders. Moreover, states can and do impose severance taxes on companies working mineral leases on federal lands.

By contrast, coastal states can be compensated for the impact of OCS-related activities (other than oil spill impacts) only through property and employment taxes on industry facilities and labor.

Proposals to give coastal states a share of revenues generated by OCS oil and gas activities have been before Congress in various forms since the enactment of the OCS Lands Act in 1953. Legislation has been introduced in both the House and Senate again in 1983. Interest in these measures has been heightened because of the coastal states' view that there has been inadequate federal financial support for the Coastal Energy Impact Program and for implementation of the Coastal Zone Management (CZM) Act. The Office of Management and Budget has eliminated any further federal financial support for such programs

due to a perceived lack of need and the planned phase-out of federal funding under the original Coastal Zone Management Act.

The Reagan Administration, through OMB, has opposed revenue-sharing legislation because of its impact on federal receipts. However, the Interior Department has indicated support for the concept of direct allocation (without reliance on the appropriations process) of a small percentage of federal bonuses, rentals, and royalties paid on tracts within 250 mi seaward of state jurisdiction.

The view has been expressed by some in industry that coastal state cooperation with OCS leasing activities and support for solutions to OCS Lands Act and CZM Act problems might be enhanced by enactment of a federal OCS revenue-sharing program and by industry support for such a program. The theory is that if states such as California and Alaska receive a share of the bonuses, lease payments, and royalties paid for federal OCS activities off their coastlines, they would have a stronger economic incentive to support the federal program. It is interesting to note (Figure 4) that while California has provided the stiffest opposition to federal offshore leasing, that state has followed a different policy where its own economic interests have been involved. In fact, more than 3,000 wells have been drilled in state waters much closer to scenic California's coastline than any wells drilled on federal offshore lands. This is three times the number of wells drilled in Texas state waters. California has another lease sale scheduled for August 1983 in state waters adjacent to federal tracts in the Santa Maria Basin.

Supporters also argue that the coastal states are the ones that feel the onshore impacts of the OCS program and bear a great deal of the risk, for which they should be justly compensated. At the same time, they say revenue sharing is necessary if coastal states are to gain equity with inland states which already receive a share of revenue from minerals extracted from onshore federal lands.

Critics of revenue sharing, on the other hand, argue that the coastal states received all they are entitled to from the Submerged Lands Act of 1953 which granted them title to the lands immediately adjacent to their coastlines. State lease sales have been held and thousands of wells have been drilled on state offshore lands, and the people of those states have benefitted handsomely from taxes, bonuses and royalties, critics add. The lands beyond the state boundaries are the nation's lands and they belong to the people of Iowa, Indiana, and Kansas as much as to the people of California, Louisiana, and Texas, it is argued.

Revenue sharing is not an easy issue to resolve politically, especially in the context of the drive for a balanced federal budget. Nonetheless, as is evident along the U.S. Gulf Coast, local coastal communities are impacted by federal offshore development, and, in all fairness, industry would do well to continue its support for the revenue-sharing concept.

Until now, industry has not gone beyond conceptual support and spelled out its views specifically as to how revenue sharing should be structured. Given the present stalemate between the coastal states and the Federal Government on this issue, we may have a unique and timely opportunity to serve as a catalyst and contribute our economic expertise in resolving the differences between the states and the Federal Government to help Congress and the Administration

bring about an equitable revenue-sharing program.

Conclusion

Oil and natural gas have provided at least 75 percent of the nation's energy requirements for the past twenty years, and that percentage will decline only slightly by the year 2000.[26] In that same year, 45 percent of our projected domestic oil supply and 52 percent of our domestic gas supply are expected to come from new discoveries. With 59 percent of future oil discoveries and 36 percent of future natural gas discoveries expected to be made offshore, accelerated offshore leasing clearly becomes a national imperative.

Imports will continue to be a major contributor to the United States' energy supply, with levels of dependency directly related to levels of domestic production. The U.S. foreign trade deficit rose to a record $42.7 billion in 1982, and there are projections that say the deficit could rise as high as $60 billion in 1983.[27] It is difficult to understand how some of the newspaper stories on the 1982 deficit seemed to take consolation in the fact that "the nation's oil bill dropped sharply" from $79.7 billion in 1981 to $62.7 billion in 1982, with both total bbl imported and the price per bbl declining. Outflows of payments for oil are still far too high, and we should never conclude that this or any import deficit remotely close to it is acceptable. The ripple effects on the U.S. economy are just too negative and just too serious. The need to reduce our trade deficit is another reason why we must proceed on schedule with the five-year offshore leasing plan.

At the same time, the OCS program has the potential of giving the U.S. economy a substantial lift by creating additional demand for oilfield services and supplies and, thus, increased capital investment and employment. Additionally, the program will make an important contribution toward achieving our national goal of a balanced federal budget. Estimated Federal Government revenues from the OCS program in 1983 are $15 billion. Total revenues estimated for the entire five-year program through 1987 are $90 billion.[28]

We in industry have a special role to play in helping to keep the program on schedule. We must continue to communicate with Congress, the affected coastal states, other users of marine resources, and the public at large about the operating practices and technology that will make it possible to realize the energy potential of the OCS in a manner which is environmentally sound and compatible with other uses of the ocean. The Department of the Interior often describes itself as the steward of public lands in America. As lessees and contractors on the OCS, we in industry also have a duty to be good stewards, careful in our operations and considerate of state and local interests. We must keep this important responsibility in mind as we endeavor to keep this vitally important program on schedule.

Footnotes

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2. Department of the Interior news release, "Approval of 5-Year OCS Oil and Gas Leasing Program Announced," July 21, 1982.

3. See, for example, Shell Oil Company's *1982 Energy Outlook*.

4. National Petroleum Council Report to the Secretary of Energy, "U.S. Arctic Oil & Gas," Washington, D.C., December 1981, p. 18.

5. Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. No. 95-372, 95th Cong., 2d Sess. (Sept. 18, 1978, 92 Stat. 629-698).

6. Id., at 92 Stat. 649-652.

7. Id., at 92 Stat. 650.

8. E.C. Broun, Paul L. Kelly, Carl H. Savit, T.C. Rogers, and J. David Gooch, Statements before the Ad Hoc Select Comm. on the Outer Continental Shelf, OCS Amendments—1978 Oversight, 95th Cong. 2d Sess. (Dec. 6, 1978); Carl H. Savit, Statement on behalf of National Ocean Industries Ass'n before Ad Hoc Select Comm. on Outer Continental Shelf, U.S. House of Representatives, 96th Cong., 1st Sess. (March 14, 1979), OCS Oversight on 1978 Amendments, Pt 1, pp. 273-275 and 319-320; Paul L. Kelly, Statement on behalf of National Ocean Industries Ass'n before Ad Hoc Select Comm. on the Outer Continental Shelf, U.S. House of Representatives (May 14, 1979), id., at 662-675; J. David Gooch, Charles D. Matthews, C.R. Palmer, and Carl H. Savit, Statements before Select Comm. on the Outer Continental Shelf, U.S. House of Representatives, 96th Cong. 2d Sess. (April 30, 1980) OCS Oversight of the Outer Continental Shelf Lands Act Amendments of 1978, Pt 5, pp. 1017-1058; C.R. Palmer, Statement on behalf of National Ocean Industries Ass'n Relative to the Dep't of the Interior Proposed Five-Year OCS Leasing Schedule, Subcomm. on Energy Resources and Materials Production, Energy and Natural Resources Committee, U.S. Senate (March 20, 1980); Paul L. Kelly, Statement before Subcomm. on the Panama Canal/Outer Continental Shelf of the Comm. on Merchant Marine and Fisheries, House of Representatives, 97th Cong., 1st Sess. (June 2, 1981), OCS Oversight, Pt 2, pp. 168-180.

9. Paul L. Kelly, Statement in support of *James G. Watt Nomination*, Hearings Before the Comm. on Energy and Natural Resources, U.S. Senate, 97th Cong., 1st Sess. (Jan. 7 and 8, 1981), Publication No. 97-1, Pt I, p. 386.

10. James G. Watt, White House press conference, Dec. 22, 1980. See Arnold, Ron, *At the Eye of the Storm—James Watt and the Environmentalists*, 59. (Reguery Gateway, Chicago 1982). See also, *James G. Watt Nomination*, N. 9 *supra*, Pt I, pp. 27-31.

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19. James G. Watt, Secretary of the Interior, public statement, Oct. 15, 1982.

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25. 683 F. 2d 1253 (9th Cir. 1982), cert. pending No. 82-1326.

26. W.R. Finger, Statement before 6th Annual Energy Sources Technology Conference, Houston, Tex., Jan. 31, 1983.

27. Associated Press wire story, The Houston Post, Jan. 27, 1983, remarks attributed to Secretary of Commerce Malcolm Baldrige.

28. U.S. Department of the Interior 1982 Report to the President, *A Year of Progress: Preparing for the 21st Century*, 1.

NOIA . . .
Who We Are—

The National Ocean Industries Association (NOIA), founded in 1972 with 35 member companies, is the only national trade association which represents all facets of the offshore and ocean-related industries. Today, the membership has grown to almost 500 member companies, located in 30 states and the District of Columbia. They are dedicated to the belief that the development of ocean resources will play an increasingly important role in the continued growth and prosperity of the United States.

We maintain the three basic purposes for which the Association was founded:

1. To promote the common business interests of the members of the offshore and ocean-oriented industries by;
   (a) increasing public understanding of the oceans' uses and their relation to the economy,
   (b) encouraging interest in industrial, scientific, recreational, research, and educational activities in the field of ocean enterprise,
   (c) encouraging the development and utilization of the resources of the oceans consistent with protection of the environment,
   (d) encouraging compatible uses of the oceans' resources, and
   (e) improving communications between industry and the federal government.
2. To support legislation and other governmental action favorable to the offshore and ocean industries and to counsel against such action when it is not favorable.
3. To expand the role of the free enterprise system in the development of the oceans' resources.

NOIA members are small, medium, and large business enterprises engaged in: diving, drilling, engineering, environmental safeguards, equipment manufacture and supply, finance and insurance, fisheries, gas transmission, geophysical exploration, marine and air transport, navigation, ocean mining, offshore construction, offshore support services, petroleum production, recreation, research and technology, shipping, shipyards and telecommunications.

GARY HART
COLORADO

COMMITTEES:
ARMED SERVICES
ENVIRONMENT AND PUBLIC WORKS
BUDGET

United States Senate
WASHINGTON, D.C. 20510

October 31, 1983

The Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

As Senators representing several Western states in which most of the land and natural resources are administered by the Department of Interior, we have serious concerns about the policies which Mr. William Clark will administer and pursue if confirmed by the Senate.

Our central question is whether Mr. Clark's nomination will represent a fundamental shift in the radical and careless natural resource policies of this Administration. As you know, Mr. Watt's tenure as Secretary has been marked by an insensitivity to many people of the West who have gained a lasting appreciation for the priceless qualities of public lands and natural resources. This insensitivity is most clearly illustrated by Mr. Watt's persistent efforts to transfer -- at considerable public expense -- public lands and resources to private interests.

Before the Senate confirms Mr. Clark's nomination, the American people, particularly those in Western states, deserve to know whether he intends to pursue or change the short-sighted policies initiated by Secretary Watt. In particular, we are interested in Mr. Clark's answers to the following questions.

- Despite the present energy glut, Secretary Watt accelerated the leasing of many of our national energy resources, forcing the government to collect bargain basement revenue on valuable coal, oil and oil shale leases. Will Mr. Clark continue to pursue a policy of virtually giving away many publicly owned resources?

- Despite Congressional authorization of expenditures, Secretary Watt consistently blocked acquisition of many parcels of land necessary to protect important values within our National Forests and Parks. Will Mr. Clark continue to block acquisition of critically important parcels within existing National Parks and growth of the National Park system?

THIS STATIONERY PRINTED ON PAPER MADE WITH RECYCLED FIBERS

- Secretary Watt advocated oil and gas leasing and development within the National Wildlife Refuges, safe harbors for many of the nation's endangered and threatened wildlife. Will Mr. Clark continue to open Wildlife Refuges to development, sacrificing the very wildlife the refuges were established to protect?

- Secretary Watt contributed little more than confusion in defining the Federal role in future water policy for the West. Will Mr. Clark expand the scope of discussion to address more than cost sharing and work to establish consistent Federal policy on Western water development and use?

- Secretary Watt launched an unprecedented attack on the nation's wilderness areas, working to open the areas to development, transferring out of Federal ownership wilderness lands on St. Matthew Island, Alaska, disregarding studies of and releasing Wilderness Study Areas in many states and shutting off additions to the Wilderness System. Will Mr. Clark continue this effort to develop pristine areas set aside by Congress for wilderness and wilderness study?

William Clark faces a challenge. He has the opportunity to alter this Administration's radical and careless natural resource policies and spearhead a return to the balanced management and responsible stewardship of the nation's public lands and resources carefully established during the past century. Nowhere is the pursuit of balance more important to the West than at the Department of Interior.

Mr. Chairman, the answers Mr. Clark provides to these and other questions will inform the American people whether he accepts this challenge. We urge you to submit these questions on behalf of Westerners to Mr. Clark during confirmation hearings later this week.

Thank you for your attention and assistance.

Sincerely,

Max Baucus

Gary Hart

Dennis DeConcini

cc: The Honorable Bennett Johnston

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Statement Submitted for the Record
By the National Inholders Association
To the Senate Committee on Energy and Natural Resources on the
Nomination of Judge William P. Clark
Secretary of the Interior

The National Inholders Association represents people. An inholder is any person who owns property or holds another type of equity interest within the boundary of a federal or state managed area or who is impacted by the management, regulation of or access to that area.

People living in areas managed by the Forest Service, Park Service, Corps of Engineers, Fish and Wildlife Service, Bureau of Land Management or Bureau of Reclamation are inholders. Some estimates have the total number of inholder families at 1,200,000.

We are pleased to testify before this committee in support of President Reagan's nomination of Judge William Clark.

We believe the President's appointment of Judge Clark demonstrates the administration's commitment to balanced and sound judgement within the Department of Interior. There is no question that Judge Clark is well respected not only within the administration, but also within the Judicial system where he served and by many members of Congress. Though some have not always agreed with his opinions, his fairness and integrity have been without question. He is known to be willing to communicate with all interested parties on a broad range of concerns.

In his capacity as a California Supreme Court Justice, Judge Clark decided a broad range of complex issues including environmental questions and private rights' concerns.

As National Security Advisor he has worked on issues giving him an understanding of America's security needs which will be vital in accessing wise use of our natural resources and reserves.

1919 Pennsylvania Avenue, N.W., Washington, D.C. 20006 (202) 296-3339

National Inholders Association: A public-interest nonprofit association that protects the rights of Americans on lands owned or regulated by government.
National Parks • National Forests • Fish & Wildlife • Bureau of Land Management
• Corps of Engineers • Bureau of Reclamation

His personal experience as a rancher provides him a practical understanding and first-hand knowledge of the delicate balances of nature and a respect for the environment. He recognizes its limits, tolerances, and needs.

We believe these characteristics are important and necessary in the deliberations that he will undertake as Secretary of Interior. It is with pleasure that we support his confirmation.

We would like to briefly address a few of the many complex issues that he will face as the Secretary of Interior.

There has been much discussion during the past three years regarding the land acquisition practices of the Department of Interior. The National Inholders Association has long been dedicated to protecting the rights of the private landholder as they are impacted by the practices of the federal government. We have in the past appeared before this and other committees to address our concerns regarding the acquisition practices of the various agencies sharing in the Land and Water Conservation Fund. The problems facing the landholder within or adjacent to federal properties have been addressed on numerous occasions by the General Accounting Office of the United States and most recently by the Inspector General of the United States Department of Interior. We are pleased to see the Department of Interior moving forward in addressing these concerns through the development of a Land Protection Plan. We fully support this effort to use alternatives to fee acquisition wherever possible, while stressing the importance of protecting the resource consistent with the intent of Congress.

We believe that the landholder has long been the protector of the natural landscape and is in fact an important part of the cultural resource. He or she is very often the individual who, in emergencies, is on the site to aid the area visitor. It has been indeed unfortunate that past agency practices have not recognized the inholder as an important resource. It is for these reasons that we applaud this important step forward by the Department of Interior. The problem was well demonstrated in an example cited by Congressman John Seiberling in his statement before the Public Lands and National Parks Subcommittee on 23 February 1983. Congressman Seiberling noted that during the tenure of Superintendent Birdsell in the Cuyahoga Valley NRA more land was slated for acquisition than now seems necessary. He stated that it was with the demise of Superintendent Birdsell and the advent of Superintendent Albert that it was recognized that much of the land previously slated was not necessary in fee. The Inholders Association has long been concerned about this type of arbitrary delineation between what lands or interest in lands were necessary to protect the resource. We cannot help but wonder in retrospect what lands were taken during this period of tenure unnecessarily. We contend that this situation is typical of those seen in numerous units of the National Park

Service. It is unfortunate it has taken so long for this recognition to come about.

There has been some concern voiced by Congressman Seiberling and other members of Congress that during this period of development of the Land Protection Plans certain landholders are being put in hardship situations, unsure of agency plans for acquisition and unable to sell their property. The National Inholders Association's responsiveness to such situations has been questioned. As I stated previously, we do support the Department of Interior's new policy on the development of Land Protection Plans though not at the expense of the landholder. In cases of hardship that have come to our attention we have communicated our concerns to the Department of Interior and members of the appropriate Congressional delegation. We have always been available to anyone impacted in such a manner and will continue to be so.

There have been, however, certain instances in which a hardship claim has been made as part of a cooperative agreement between the landholder and the area supervisor in order to change established acquisition priorities, when in fact no true hardship existed. We are aware that the Department of Interior has provided funds for dealing with true hardship cases. It is indeed unfortunate that any landholder may find him or herself in a state of limbo, unsure of the status of a particular parcel of land. This is not, however, a new situation for the inholder who has long been subject to arbitrary behavior by the agency. This is in fact the very problem we hope to see the Land Protection Plans address. It would be equally unfortunate to continue to acquire lands in the arbitrary fashion that has been used in the past only to find that landholders have been displaced unnecessarily. We hope that the Land Protection Plans will move forward expeditiously meeting resource need while addressing the landholder's role, and ultimately creating a cooperative environment. We encourage Congressional Staff to contact us, should they become aware of hardship situations and allow us to help reconcile true hardship situations.

We would briefly like to note that we are supportive of the agency's commitment to additional unit staffing. We have testified in the past our concern that staffing of National Park Units was not keeping pace with unit growth. We are pleased to see a larger commitment being made in this area.

1980 STATE OF THE PARKS REPORT

The 1980 State of the Park Report gives us a glimpse of the problems faced by the national Park Service.

It also raises numerous questions, a primary question involves adequate staffing and expertise. Considering the growth and diversity of the system, has the park service kept pace with the new demands?

We note that the report itself points up various shortcomings, lack of adequate documentation, "only one-quarter of all reported threats have adequate documentation." It is clear there is a deficiency in proper funding for scientific and resource management.

I have included a chart which dramatically demonstrates the rapid growth of the system while staffing has remained virtually unchanged. This chart unfortunately does not show the added dimention of visitor usage.

Beyond the problem of general staffing is that of scientific and technical personnel. This problem has been discussed at length in a report to the 81st meeting of the National Park System Advisory Board October 1979. This report cited a need for a "higher degree of professionalism, hit and miss experiences on priceless structures, weakness in procedures dealing with accountability of personnel."

In its last paragraph we find a sense of futility. "If, however, the Committee's efforts should be embalmed in the files under the heading of "Reports Received" we can only see our involvement in this effort as a useless exercise." However, in a 1981 report we note the report of the Cultural Task Force to the NPS Advisory Board notes that "in the 20-year period between 1960 and 1980, with the addition of over 150 cultural areas, there has been a decrease in the number of curators." It appears that the 1979 report was indeed "filed."

In April of 1979, the NPS Advisory Board Subcommittee report was submitted titled "Do recent acquisitions by the National Park Service of new parks, monuments and sites threaten the quality and management capability of existing parks".

This discussion recognizes a possible link between new growth versus degradation of existing parks. In October of 1981 a National Park Advisory Board Task Force Report on the Land, Water and Conservation fund stated the following:

> The present task force's analysis of the fund's history and of critical needs within NPS suggest the following conclusions: 1) that NPS must have more funds to manage its existing resources rather than acquiring more lands; 2) that many natural and historic resources in the parks are seriously threatened, requiring immediate attention and expenditures for amelioration and resource research; 3) that construction and remediation needs require attention; 4) that techniques, other than fee simple land acquisition, have the potential for providing various degrees of protection to park lands.

This report further states "expenditures for attacking the most critical threats to park resources, as identified in the State of the Park 1980 report be assigned priority status."

The acquisition policies of the Department of Interior has become a major political issue in this administration. This is unfortunate because the matter goes beyond elections, administrations and party affiliations, and what is at stake is our national treasures. The problem is not a new one, and goes to the heart of the agency. I have included a discussion of these problems by Bob Cahn, author of Footprints on Planet Earth. Mr. Cahn was a member of the Council on Environmental Quality and was Pulitzer Prize winning writer for the Christian Science Monitor. The article, I include is from the National Audubon Society publication, to quote him briefly.

> The mushrooming in size and roles was inevitably to take its toll on agency morale and unity, as well as its ability to protect the resource and serve the public adequately.

The problems of growth, staffing, political trade-offs have taken their toll.

GAO has done a number of reports on the problems faced by the Park Service. These reports need to be taken into consideration as we plan for the future (see list GAO series.)

I would briefly like to address the identifical of the Inholder as a threat. Though, I will concede that certain individuals may be involved in speculation and development, we at the Inholders Association have been opposed to such attempts. In our national newsletter we advised our members that they should not abuse the Land Protection Plan Development Period. We have been active in Grand Teton, Voyageuvs and Yosemite National Park in discouraging development.

These individuals most often have been drawn to the area recognizing the recreation opportunities associated with national designations. There is, however, another type of inholder, this is the individual maintaining his home, often his cultural heritage in the communities of rural America. He is a caretaker of the land as perhaps has been his family for generations.

In a time of cutbacks, when the park service is already understaffed, perhaps we should look to the Inholder and local communities for help and cooperation. At a recent panel held by the American Recreation Coalition, Russ Dickenson stated that the parks are no longer remote islands, untouched. Isolation from local communities has resulted in a lack of communication and breakdown in the good neighbor policy. We must begin to communicate that the Inholder can be an asset.

This 1980 report has been discussed numerous times during these confirmation hearings. It has been used as evidence that threats exist and to establish a framework for support of the Park Protection Act (H.R. 2379). We are extremely concerned about the provisions of this Act for the following reasons:

* The bill is imprecise in its application of "... adjacent to units of the national park system." Millions of acres of federal, state, local and private land could fall within the "buffer zones" created by H.R. 2379.

* National Park System units must have boundaries. Instead, H.R. 2379 gives the Interior Department broad new powers that will interfere with the management of federal lands set aside for multiple uses: BLM Public Lands, U.S. Forest Lands, Wildlife Refuges, etc.

* The authority to review and possibly oppose all permits involving federal funds adjacent to a Park Service area is a powerful tool. It could be used to forcefully encourage local government to agree to more restrictive land use controls inside inholding areas than is necessary to protect resource values.

* Thousands of units of state and local government could find their federal grants or loans for community development or improvement projects threatened: sewage treatment plans; road and bridge repairs; airports; etc.

* Federal highway, flood control, water, and other projects could be delayed, causing harm to local economies and employment.

* Indirect effects could mean delays in the start of residential or commercial construction in affected localities.

* The bill would delay federal decision-making from 90 to 180 days or more, thereby hindering mineral exploration, timber harvest, grazing, recreation, and other multiple uses in areas surrounding national parks. Delays could result in the loss of an entire season or activity and have negative effects on jobs and the economy.

* The imprecise nature of the bill would invite a constant threats of litigation, thereby forcing the courts to decide the future of virtually every federal action "adjacent to" park system units. The result: delay, higher costs, and loss of jobs, resources, etc.

We support the administration in its opposition to this act.

Last we would like to point out some abuses by the Federal Government and make some recommendations.

An overview of problem areas within the land acquisition policies and practices of the National Park Service, Forest Service, and other Federal land acquisition agencies.

Appraisals ---- Appraisal Shopping: We know of examples where there is every appearance of a deliberate attempt to cut the price of certain properties by continuing to ask for new appraisals by the Government until a low figure is obtained. Under the law the agency must offer not less than the "Approved Appraised Value" but the agency approves it and does not have to show copies of all appraisals which makes oversight difficult. In one case we are familiar with, it appears that the higher appraisal was by far the better quality and conformed closer to MIA standards, yet was turned down because it was faulty in the agency's judgement. The only reason the landowner became aware of the different appraisals was that he didn't recognize the name on the appraisal he saw. He was never given an opportunity to accompany the appraiser as is required under Public Law 91-646.

Appraisals ---- Captive Agents: Often a contract is given to an outside appraiser who must do many appraisals for the agency under the contract. He becomes dependant on the agency for a significant portion of his livelihood. It appears in a number of cases that appraisers have held down prices in order to stay in good standing with the agency.

Appraisals ---- Political considerations - new projects: In Santa Monica Mountains and Redwoods and a good many other areas there seems to be a deliberate pattern of under-valuation when a new project is submitted by the Park Service to the Congress. Often, instead of letting agency appraisers do the work, the agency either hires outside appraisers or uses appraisals submitted by the environmental groups pushing to create the new area. Some experts feel that the potential cost overruns now sitting in just the Park Service alone may well be over $10,000,000,000 by the time the projects are completed rather than the $3,000,000,000 backlog now being discussed.

Relocation ---- Coersion used: In a recent case in Florida relocation benefits were used in an effort to settle the price. A negotiation tool. Under the Uniform Relocation Act, PL 91-646, relocation benefits have nothing to do with the price for the property. In this case a man with a son and daughter with families lived on his property. Simply by whim the land Acquisition Officer paid full relocation benefits to the daughter who had a mobile home, but would not pay full benefits to the son who had a house on a permanent foundation. The family was told they would get more in relocation benefits if they would agree to a proper settlement in price. This kind of story is heard over and over in the parks. There appears to be no oversight whatsoever by the Park Service to prevent this from happening.

Relocation ---- Limited attempts to conform to the law: This is especially true when relocating a business where little effort is made to keep the landowner whole. For example, a farmer in Arkansas was forced to move off his farm by a Declaration of Taking. He had no opportunity to find another farm and by the time he was fully paid, prices had escalated to the point where he could not find another farm he could afford with the same money.

It is important to note that in a Declaration of Taking only the "approved appraised value" is deposited with the court. In a contested case it may take years to get full value, yet the man in the above case was already relocated. This family farm was permanently lost to production and his machinery is spread out over a number of neighbor's property for storage. In many cases there is great difficulty just getting the deposits out of the court which further hinders a satisfactory acquisition.

Oversight ---- Coersion: In a recent case a landowner in California was denied access to a roadway that had been promised him and told that he might not get back the 53 acres that were outside the boundary of he park unless he settled with the National Park Service on price. To the credit of the Western Regional Land Acquisition office, when we sent the landowner in last week, they quickly made it clear that he had access and that the 53 acres had nothing whatever to do with the settlement price for taken land. Why is the U.S. Attorney's office using this kind of tactic.

Oversight ---- Fear deliberately caused: In one Forest Service case in Minnesota the landowner was not told when he went to renew the special use permit that the agency wanted his property or that there was anything wrong. He went ahead and made some changes (built a cellar and winterized the home). Then the agency would not renew the permit for a road into his house which also allowed a corner of the house to rest on Forest Service property. The landowner could not widen his road to allow an oil truck in to fill his heating tanks and thus had to move off the property in winter. He was promised resolution and even bought two additional 40 acre tracts to trade with the agency for the 12 acres behind his house. One of these tracts was on the want-to-buy list of the Forest Service.

The agency lost interest in the 40 acre tract when the landowner offered it. In addition, the official of the agency said within hearing distance of witnesses he was not aware of, that "things happen - the agency has been known to burn down houses." This house was on fee title land. This family has never escaped the fear of that statement and after three years of trying to resolve the situation is sinking slowly into bankruptcy.

Oversight ---- It looks like fraud: In this Colorado case the landowner had settled a divorce with his wife by giving her his ranch. He, however, kept an option to buy the ranch back which the agency was aware of because the land acquisition officer flew to the landowner's home in Illinois to discuss purchasing the option. When that failed, the LAO purchased the property anyway from the wife, did not tell the title company of the option, and obtained title. Because the agency had paid all the money to the wife, it would not revest the land but finally settled much against the landowner's wishes by selling the landowner a life tenancy. In the agency's defense it wanted to revest a life tenancy but the U.S. Attorney would not allow it and would not cooperate. The landowner in the case was elderly and the emotional stress was so immense he got to the point where he could not even stand to discuss the issue.

Oversight ---- Pressure to sell: It seems there are numerous cases where the agencies harrass the landowners into finally selling. Not because the landowner wants to, but because he cannot stand up to the strain of the constant pressure. Those of us who have lived in big cities fail to realize the impact the threat of Federal action has on the rural homestead culture. It becomes a community thing and when one landowner is threatened, the whole community feels the pain.

Oversight ---- Legislative histories: These are often never read by administrators. The National Inholders Association under the Freedom of Information Act requested a copy of the legislative history of all National Parks where acquisition was under way. 90% of the superintendants not only could not provide a copy, but said they did not have one in their office and we would have to go to Washington. If one wonders how abuses like Lake Chelan, Fire Island, Cuyahoga Valley, Mt. Rogers and Buffalo River can occur, it is because management is general and not site specific and doesn't differentiate between the various protection levels mandated by Congress. Even though it is the policy of the Park Service now to have legislative histories in each office, many superintendants have still not read nor have their staffs read the full intent of Congress.

Oversight ---- Full disclosure: In three current cases we are aware of the agency deliberately withheld facts from the landowner so that his decision on an offer made to him would meet agency objectives. This information is in writing and discusses whether they ought to tell him all the information.

Oversight ---- Civil rights not protected: There does not appear to be any oversight in the agencies to make sure the civil rights of the landowner are protected. No spot check or audit system. There seems to be a club atmosphere where everyone is covering for everyone else. For example, we know of no agency official who has ever been repremanded for actions contrary to the legislative mandate or his job discription. This has a negative effect on morale and accountability within the agency. Even Justice is put in an awkward position because it must pursue the acquisition as well as protect the civil rights of the individual -- sometimes a conflict of interest.

Oversight ---- Accountability: Land acquisition and other personnel are moved so fast they come in blaming everything on the people there before and then leave before their decisions and the impacts of those decisions become clear to the affected people.

Oversight ---- Additional pressure to sell: When acquisition cannot be accomplished there is often an attempt to drive the landowner out by cutting off access, limiting sewage disposal systems, and otherwise deliberately making life more difficult. For example, the Fire Island National Seashore Environmental Impact Statement says it best in the Park Service's own words:

(1) Impacts on the Socioeconomic Environment
Opportunities for additional development in the development district of the seashore would become progressively more limited as the federal government acquired more land within the communities and held it in reserve as undeveloped open space. The density of development would slowly decrease, resulting in a general decline in the population that the communities could support. As the population declined, commerical establishments providing goods and services to residents would realize progressively lower profits, and the number of closings would increase. Development within the commercial districts would slowly be acquired by the federal government and the land converted to open space. Ferry service from the Long Island mainland would become less profitable and more limited as populations declined. With access progressively more restricted, goods and services more difficult to secure, and the land progressively more fragmented into a mosaic of developed and undeveloped parcels, the communities would become less desirable places for some residents to live; these residents would sell their properties to the federal government. Eventually, a small cadre of residents would remain. These would be self-sufficient people willing to endure the considerable inconvenience of living in isolated enclaves with a matrix of federal land.

Oversight ---- Accountability again: How do you protect the agency or the people from fraud and misrepresentation when there is no way to reach the individual who does not obey the law. Some system of responsibility or procedure needs to be set up to make land acquisition people and superintendants accountable and re-infranchise the local people.

Oversight ---- Coersion: In a Florida case the property owner told the land acquisition officer that he was exempted from purchase. The LAO agreed but said that if he didn't sell, he'd wish he had. Then the LAO went into a discussion of how he could make the landowner's life miserable listing such things as gates with chains across the roadway and other inconveniences. The landowner saw the point and sold.

Declarations of Taking ---- Many abuses: Often DTs are threatened when there is no ability to use one. For example, in a Wild River project in Montana DTs were threatened over the phone in an area where the agency was already over its condemnation allotment. In another case in Wyoming, the agency tried to use a DT on a house in a village three times over one year, because they knew that in that state they might have trouble using a standard complaint - only condemnation. Once it became clear that the Congress had decided against the DT, the agency dropped the case. There the DT was punative.

Declarations of Taking ---- More abuses: DTs are often used against the intent of Congress as a coersive tool. In one case in the East, the people

with the agency in a position to know what they were doing threatened a DT in front of witnesses who had appeared as an expert witness in condemnation trials. They knew they could not deliver on their threat. They had asked for a General Declaration of Taking authority the previous February and been turned down. Yet, they still told the landowner that they would own his property by the next night if he did not settle with them that day.

We are also aware of situations where firearms were carried in a threatening position when taking possession of a piece of property prior to the DT being served. In addition, there are no uniform standards for use of DTs. The Forest Service only uses DTs according to top land acquisition personnel.

Declarations of Taking ---- Who appropriates the money: In a midwestern case, appraisers told the agency the cost of a certain project would be 20 to 25 million dollars. However, the agency told the Congress in its request that the cost would be only $1,200,000. The Congressional Committee issued the approval of the DT but restated that an additional check of the appraisal should be made before the DT was used. Congress was never told that, in fact, it could be liable for 20 to 25 million dollars, because of a deliberate misrepresentation of the true facts. In this case, it looks like the agency appropriated the money.

Declarations of Taking ---- Failure to negotiate: Under the Uniform Relocation Act there must be a good faith effort to negotiate. In fact, they often do not negotiate as required by the law especially in cases involving Declarations of Taking. This results in many more condemnations than are necessary and undue hardship on the landowner as well as limiting his ability to fight back.

Procedures ---- Surveys: In a number of cases the agency orders new surveys and moves the boundary line to fit the new survey. Although we find it amazing, we know of no examples where the agency moved the line away from a landowner's property and gave him the property. In some cases, the agency line gradually moves, ever so slowly through the landowner's property by successive surveys. In other cases, acquisition is made of the wrong number of acres while the agency knows full well the size of the property.

Procedures ---- Superintendant training: It has become apparent that numerous superintendants simply don't understand the use of alternatives. In one recent Wyoming case, the superintendant described the easement completely wrong from its stated intent and after telling the NIA he would work with the landowner on a solution involving easements, he continued to try to buy in fee at every meeting with the landowner.

Procedures ---- Willing sellers: The Park Service lists all persons who sell up to the day the court rules on a case as a willing seller. The landowner may have been in court for 5 years and settle just before the judge

rules, but Congress is told that he is a willing seller. Thus, Congress gets the false impression on the success ratio and acceptability of the land acquisition program.

Procedures ---- Arbitrary rulemaking: In one national park the agency told all landowners who owned platted lots that only one house per ownership could be built. Thus, even if a landowner had planned for his two kids to build near him or his mother or father, they would be prevented. With the overpowering threat of condemnation hanging over their head and knowing there is no way to fight this immense power in court, this kind of regulatory abuse is often successful.

Procedures ---- Justice Department v.s. Interior: Who is the client. Often it seems that the Interior is subject to the whims of the Justice Department and cannot make settlements and changes because of the inability to get Justice to go along. We reviewed a case earlier in Colorado where a landowner was wrongly deprived of a property right when the government bought the land knowing he had an interest. The U.S. Attorney would not let the Park Service settle the case the way they wanted to and ultimately forced the landowner to submit to a less than reasonable settlement - even less than the Park Service thought was fair.

Procedures ---- Faulty information passed to the field: Superintendants are not made aware of changes in policy and investigative reports. Many superintendants, if not most, were not made aware of the moratorium on condemnation by the Appropriations Interior Subcommittee under Chairman Sidney Yates in June, 1978. In fact, threats of condemnation were continued all during the moratorium. In addition, there is no system of making sure General Accounting office reports and other documents are provided to improve decision making in the field.

Condemnation ---- Oversight needed: At the present time the only justification the agency needs is that it has the money to spend to condemn -- the courts will not look to whether there is a specific Congressional intent to condemn on that project. How does the landowner protect himself and how does the agency assure itself that the condemnations are appropriate and consistant with the intent of Congress. There needs to be an institutionalized resolution to this issue. There is no system of checks and balances.

Condemnation ---- enforcement tool: Almost any violation can bring on the final solution -- condemnation. There needs to be the use of a restraining order so that the agencies will have to prove there is a need for their action rather than the use of condemnation whereby the agency need provide no proof of need or abuse. In the hands of a tyrant, this is clearly unacceptable power.

Political ---- Political intrusion: Tampering with boundaries and personnel decisions is an everyday occurance by certain politicians. We know of

one situation where when a politician could not get the chief on project to change his mind, the politician asked the second in command what he would do if he was made chief.

Political ---- Favoritism: It appears that certain landowners get some special treatment because of their political connections including rulings on appraisals and boundary changes.

Additional impacts ---- Health and financial problems: The government goes on and on and on. Many landowners are elderly and often do not receive their benefits before they die. Out of three condemnations currently under revestment proceedings in Yosemite, two of the landowners are dead and they were not elderly. The emotional upset caused by constant uncertainty takes its toll on the small landowner who is not insulated by money and lawyers. Proceedings take often 5 years and in some cases up to 12. The landowner lives in constant fear.

RECOMMENDATIONS

1. Congress should pass legislation to formally create the Land Policy Group made up of the Directors of the Park Service, Forest Service, Fish and Wildlife Service and Bureau of Land Management with the Deputy Assistant Secretary of Interior for Fish, Wildlife and Parks as the chairman.

2. The Land Policy Group should do the following:

   A. Develop and monitor for orderly consideration of new areas with a complete review of the impacts on local people in the process. This review should include a Socio-Culterial Assessment with as much weight as the environmental and economic impacts of the proposed project.

   B. Review all Land Protection Plans.

   C. Develop uniform land acquisition procedures for all agencies.

   D. Coordinate and oversee the protection plans for private lands or interests in lands.

   E. Hear, review and rule on appeals by private landowners, local communities and States concerning Federal land protection programs.

   F. Promulgate regulations which set forth procedures for submission of appeals and conducting hearings.

   G. Develop a code of conduct applicable to all land protection activities and personnel

H. Encourage exchanges as a means to maintain tax base and cut Federal spending.

I. Review all condemnations and Declarations of Taking.

J. Notify all landowners affected by a pending rule making and provide a time and place to hear concerns.

K. Make sure that copies of all appraisals be provided to affected landowners with justification why one was picked over another.

L. Notify all landowners of any pending condemnations and provide them with a copy of all materials submitted to the LPG.

M. Develop such oversight systems as are necessary to make sure the above requirements are met.

3. Legislation should be developed to set up a separate relocation agency to administer the Uniform Relocation Act benefits in a uniform manner to all beneficiaries of all agencies.

4. Require that the Inspector General shall make periodic random samplings of the management of various areas to make sure the agency is continuing to follow the intent of Congress.

5. Pass legislation reaffirming provisions of existing law providing protections to landowners and clarifying the intent of Congress with respect to protecting the rights of landowners.

6. The Investigative Oversight Hearings be held to document the abuses of the recent past and present and so that this and other committees have the full facts from which to make remedial decisions.

7. A review of all pending condemnations to make sure they meet the intent of Congress as was required by the full appropriations committee in the Senate in Report 26-251 accompanying H.R. 4392, the Justice Department and Interior Department have never undertaken the review required by this report.

8. Express the view of this committee that the Park Service and other agencies accept wherever possible donated or low cost protective easements to prevent development that is not compatible with the resource.

The recommendations included in this statement and our Transition Statement to the Reagan administration if implemented will allow the orderly protection of significant areas while protecting the rights of families and communities.

There is a general fear created out of the excesses of the past 10 years among rural landowners over the threat of federalization because of the many reports and documentation of abuse of condemnation and land acquisition authority. If something is not done to remedy this situation quickly, there will be a general stoppage to protection strategies and a turning away from protecting land.

In the interest of protecting land and the environment, the Congress and Administration along with the environmental groups and landowners should work together to plan areas, protect private rights, provide oversight to maintain those rights and prevent a general change in the public attitude that appears well on the way toward preventing future protection of some areas.

The Republican Party made a strong statement in the 1980 Republican platform:

> "Under Democratic rule, the federal government has become an aggressive enemy of the human right to private property ownership. It has dissipated savings through depreciation of the dollar, enforced price controls on private exchange of goods, attempted to enforce severe land use controls, and mistreated hundreds of thousands of national park and forest inholders.
>
> "The next Republican Administration will reverse this baneful trend. It will not only protect the cherished human right of property ownership, but will also work to help millions of Americans - particularly those from disadvantaged groups - to share in the ownership of the wealth of their nation."

Quoting Robert Frost:

The woods are lovely, dark and deep
But I have promises to keep
And miles to go before I sleep.
And miles to go before I sleep.

We've miles to go to reconcile all of our differences, our problems, our future and reach an equitable solution to our land protection; all must be involved in this important process. We at the National Inholders Association appreciate this opportunity to respond. The woods are indeed lovely, dark and deep: may we have the wisdom to keep them so. Man living in peace with his environment, part of it not man apart, but man in harmony. We've promises to keep, promises to the future.

GENERAL ACCOUNTING OFFICE REPORTS:

1. Federal Land Acquisition and Management Practices. (CED-81-135) (9/11/81)

2. The Federal Drive to Acquire Private Lands Should be Reassessed. (CED-80-14) (12/14/79)

3. Federal Protection and Preservation of Wild and Scenic Rivers is Slow and Costly. (CED-78-96) (5/22/78)

4. Federal Land Acquisitions by Condemnation -- Opportunities to Reduce Delays and Costs. (CED-80-54) (5/14/80)

5. Lands In The Lake Chelan National Recreation Area Should Be Returned to Private Ownership. (CED-81-10) (1/10/81)

6. The National Park Sevice Should Improve Its Land Acquisition And Management At The Fire Island National Seashore. (CED-81-78) (5/8/81)

INTERIOR DEPARTMENT INSPECTOR GENERAL REPORTS:

1. Cost Estimates. E-FW-NPS-5-81 part a November 1981
2. Park Boundaries and Land Acquisition Practices. E-FW-NPS-5-81 part b March 1982

CONGRESSIONAL REPORTS:

1. Workshop On Public Land Acquisition and Alternatives 97-34 Committee on Energy and Natural Resources. U.S. Senate 10=/81
2. Workshop On Land Protection And Management 97-101 Committee on Energy and Natural Resources U.S. Senate 6/82

RESEARCH PAPERS:

1. Socio-Cultural Assessment-Buffalo Nat. River ---- Kent Anderson Phd. Institute for Human Rights Research
2. Socio-Cultural Assessment-Blue Ridge Parkway-Anderson.
3. Socio-Cultural Assessment-Mt. Rogers NRA-Anderson.
4. Socio-Cultural Assessment-Olympic Nat. Park-Anderson

NEWS SOURCES:

1. Newsweek Magazine-Land Grab By The Parks-August 14, 1978
2. Colorado Magazine-The People VS. The Park Service-Nov-Dec. 1979
3. New Jersey Monthly-Death of a Valley-May 1980

4. Pacific Northwest Magazine-Showdown at the Columbia Gorge. (10/81)
5. New West-Battle Of Big Sur-(12/22/80)
6. Wall Street Journal-May 25, 1982-"The Silent Scandal" Editorial
7. Wall Street Journal-June14, 1982-"The Seiberling Memo" Editorial
8. Wall Street Journal-December 27, 1982-"Along the Appalachian Trail" Editorial

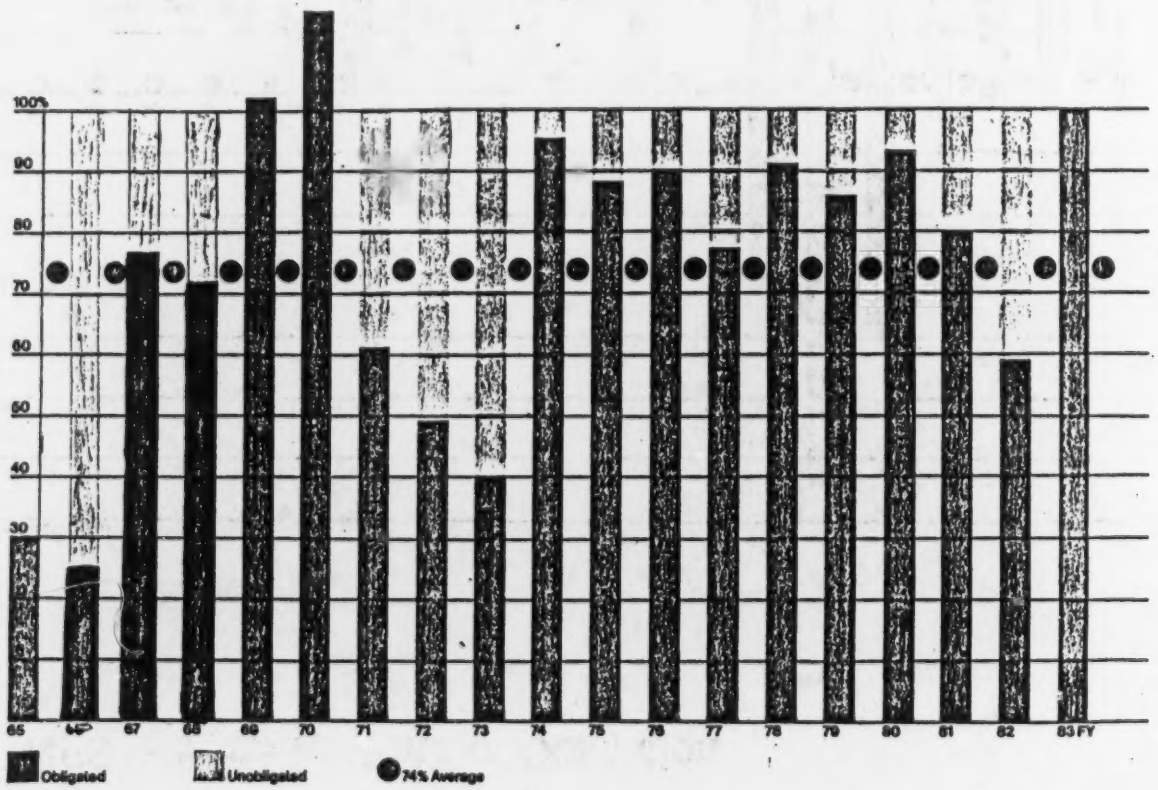
MEDIA COVERAGE:

1. Prime Time Television Show - Tom Snyder - December 16, 1979 The People Vs. The Park Service
2. In condemnation-The Cuyahoga Valley-The Institute For Liberty And Community. December 1979.

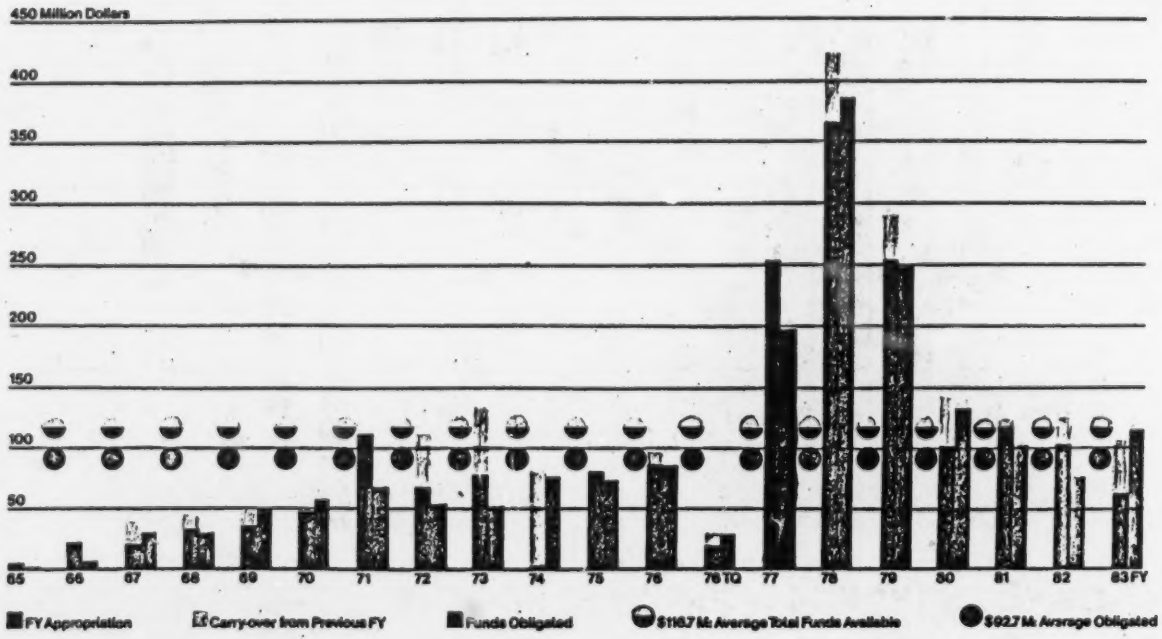
BOOKS:

1. The Taking by Joseph Gughemetti - Terra View Publications
2. At THe Eye Of The Storm-James Watt and the Environmentalists. By Ron Arnold. Regery-Gateway
3. Progress And Privilege by William Tucker Doubleday

NPS Land and Water Conservation Fund Percent of Available Funds Obligated



NPS Land and Water Conservation Fund Rate of Obligation



Land and Water Conservation Fund; (Federal Portion); Obligations by Fiscal Year — January 1983

Fiscal Year:	NPS:	FS:	FWS:	BLM:	Other:	Total
1965	$ 1,458,043	$ -	$ -	$ -	$ -	$ 1,458,043
1966	6,386,198	7,339,478	-	-	-	13,725,676
1967	29,863,121	17,349,443	21,116	-	-	47,233,680
1968	29,889,502	12,200,759	1,290,572	-	-	43,380,833
1969	50,138,206	16,047,115	1,239,476	-	80,227,860 1/3/	147,652,657
1970	57,662,099	18,132,194	1,699,170	10,325	3,131,424 3/	80,635,212
1971	68,347,331	14,570,349	5,070,371	146,074	111,969 3/	88,246,094
1972	54,902,554	30,335,391	4,246,494	672,025	1,485,819 3/	91,642,283
1973	53,231,508	27,560,637	4,141,817	816,013	71,478 3/	85,821,453
1974	76,826,214	26,705,497	1,515,364	578,992	68,930 3/	105,694,997
1975	73,930,859	27,837,880	2,864,486	529,501	15,595 3/	105,178,321
1976	85,711,778	29,993,278	13,089,576	1,913,788	41,790 3/	130,750,210
1976 TQ	29,280,540	8,713,696	1,200,159	284,386	4,362 3/	39,483,143
1977	197,607,547	46,755,881	17,028,778	2,754,748	29,006 3/	264,175,960
1978	386,948,697	45,321,577	22,697,539	744,199	37,440 3/	455,749,472
1979	249,474,342	71,856,468	28,846,495	1,199,125	-	351,376,430
1980	132,224,769	70,332,239	22,867,424	2,575,904	800,000 4/	228,800,336
1981	102,704,816	54,683,160	27,939,171	2,707,264	8,250,000 4/	196,284,411
1982	75,607,561 2/	12,364,607	13,146,842	918,524	3,759,621 4/	107,797,155
Subtotal	$1,762,195,685	$538,099,449	$168,904,870	$15,850,868	$100,035,294	$2,585,086,366
1983 2/	114,305,000	86,068,000	32,022,000	2,562,000	5,000,000 4/	239,957,000
Subtotal	$1,876,500,685	$624,167,649	$200,926,870	$18,412,868	$105,035,294	$2,825,043,366
1984 2/	54,671,000	10,070,000	-	130,000	-	64,871,000
TOTAL	$1,931,171,685	$634,237,649	$200,926,870	$18,542,868	$105,035,294	$2,889,914,336

1/ Includes $20,000,000 authorized but not appropriated

2/ Estimated

3/ Redwoods

4/ Pinelands

5/ Includes $20,000,000 deobligation to eliminate funds authorized in 1969 but not appropriated

National Park Service Statistical Data, Fiscals 1970-1981

	Operating Budget ($000)	No. of Parks	Positions PFT	Positions Other	Total Acreage	Land Acquired	Land Unacquired
1970	95,002	251	6,402	6,075	29.5Million	28.5Million	994.077
1971	116,468	257	6,906	5,361	29.8Million	28.6Million	1.2Million
1972	129,313	260	6,957	6,367	30.1Million	28.9Million	1.3Million
1973	166,773	271	7,148	6,581	30.5Million	29.0Million	1.4Million
1974	193,443	272	7,261	6,866	30.5Million	29.1Million	1.4Million
1975	220,138	284	7,301	10,115	31.0Million	28.9Million	2.1Million
1976	255,203	286	7,558	11,066	31.1Million	29.3Million	1.8Million
1977	295,033	291	8,941	6,854	31.3Million	29.5Million	1.8Million
1978	340,851	294	9,156	6,905	31.3Million	29.7Million	1.7Million
1979	398,120	322	8,780	6,717	76.7Million	70.8Million	6.0Million
1980	390,955	323	8,448	6,901	77.0Million	70.9Million	6.1Million
1981	475,021	327	9,341 (Est.)	6,799 (Est.)	81.5Million	73.7Million	7.8Million

WESTERN CONFERENCE
THE COUNCIL OF STATE GOVERNMENTS

720 SACRAMENTO STREET, 3rd FLOOR SAN FRANCISCO, CALIFORNIA 94108 (415) 986-3780

APPROVED RESOLUTION NO. 83-4

NATIONAL PARK PROTECTION ACT

(Introduced by the Public Lands Committee)

Urging the Defeat of the National Park "Buffer Zone" Bill - H.R. 2379

WHEREAS, a bill has been introduced in the United States Congress which would impose additional federal control on areas outside and inside the boundaries of units of the National Park System; and

WHEREAS, this measure, H.R. 2379, also known as the National Park Protection Act, will soon be coming to a vote in the House of Representatives;

NOW, THEREFORE, BE IT RESOLVED that the Western Conference of the Council of State Governments hereby opposes H.R. 2379 and recommends that this measure be defeated by the Congress for the following reasons:

1. The bill is imprecise in its application of " ... adjacent to units of the national park system." Millions of acres of federal, state, local and private land could fall within the "buffer zones" created by H.R. 2379,

2. National Park System units must have boundaries. Instead, H.R. 2379 gives the Interior Department broad new powers that will interfere with the management of federal lands set aside for multiple uses: BLM public lands, U.S. Forest Lands, wildlife refuges, and so on,

3. Federal legislation already exists to control activity on federal lands around the parks: the National Environmental Policy Act, the Clean Air Act, the National Forest Management Act, the Federal Land Policy and Management Act, and a host of other statutes,

4. Thousands of units of state and local government could find threatened their federal grants or loans for community development or improvement projects: sewage treatment plants, road and bridge repairs, airports, and others, and

Sunrise, Mt. McKinley Ansel Adams

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This Information is EMBARGOED until 10-31-83 P.M.

October 25, 1983

SUMMARY ANALYSIS OF JUSTICE WILLIAM CLARK'S ENVIRONMENTAL RECORD ON THE CALIFORNIA SUPREME COURT

This analysis focuses on 17 major environmental cases in which William Clark participated during his tenure on the California Supreme Court from 1973 to 1981. Excluded from review are decisions which did not involve a statute, regulation or constitutional provision directly concerning the environment or environmental litigation. Consequently, decisions based on grounds unrelated to an environmental law are not included even if arguably they had an indirect effect on the environment. Thus, this memorandum does not address cases such as a 1974 decision 1/ in which Clark held that citizens seeking damages for airport noise could not bring a class action, as opposed to individual suits, under the class action rules; a 1976 decision 2/ in which Clark wroted that an economically viable golf course could not be considered "blighted" within the meaning of the redevelopment law; nor a 1980 decision 3/ in which Clark ruled that city councilmen who had accepted campaign contributions from a developer were not disqualified from voting in favor of his project. Because this memorandum narrowly focuses upon decisions dealing directly with environmental issues, it provides a valid basis for evaluating Justice Clark's fitness for managing this nation's environmental resources.

1/ City of San Jose v. Superior Court (Lands Unlimited), 12 Cal. 3d 447 (1974)

2/ Sweetwater Valley Civic Assoc. v. City of National City, 10 Cal. 3d 938 (1980)

3/ Woodland Hills Residents Ass'n, Inc. v. City Council, 26 Cal. 3d 938 (1980)

In each of these 17 cases, Clark sided with developmental interests and against environmental protection. 4/ In 15 of these cases, Clark dissented from the majority position. Clark's record on the court suggests that he is unfitted for the position of Interior Secretary. His consistent rejection of environmental controls which the majority of the court found to be eminently reasonable shows that he lacks the balance needed to perform a job that requires careful reconciliation of competing environmental and developmental interests.

To facilitate analysis these 17 decisions are divided into several substantive categories: California Environmental Quality Act, initiative zoning, urban development controls, public use of beaches and waterways, protection of agricultural lands, and environmental litigation. Several of the more interesting and representative cases are discussed in detail.

California Environmental Quality Act

Clark participated in two decisions under the California Environmental Quality Act ("CEQA"), No Oil, Inc. v. City of Los Angeles, 13 Cal 3d 68 (1974), and Bozung v. Local Agency Formation Commission, 13 Cal. 3d 263 (1975). In No Oil, the court was presented with the question whether CEQA required preparation of an environmental impact report (EIR) prior to city approval of an oil drilling project within the Pacific Palisades residential area of Los Angeles. The majority ruled that an EIR was necessary because there was substantial scientific evidence that the drilling project might have significant environmental impact. Clark dissented, however, on the grounds the oil company presented substantial evidence that the project would not have an important or momentous effect of a permanent or long-enduring nature.

In Bozung v. LAFCO, the court addressed the question whether an EIR was required before a county local agency formation commission could approve annexation of several hundred acres of agricultural land intended for development. Six justices of the court joined in a per curiam affirmance of the unanimous decision of the court of appeals mandating preparation of an EIR. The lone dissenter was Clark, who argued that annexation was merely a paper transaction which would not necessarily result in construction of the proposed project. In response, the majority pointed out that all governmental approvals of private land uses are merely paper decisions, and that agencies have a duty under CEQA to factor environmental considerations into their decision making process at the earliest possible stage, in order to maximize environmental protection.

4/ In one case Clark authored two opinions. The first opinion, which affirmed dismissal of a case brought by an environmental organization, was reversed by the United States Supreme Court. In the second opinion, Justice Clark reinstated the lawsuite in accordance with the remand order from the Supreme Court. See Environmental Defense Fund v. East Bay Municipal Utility District, discussed below.

Zoning by the Initiative Process

During Justice Clark's tenure, the California Supreme Court handed down three decisions upholding the power of the electorate to adopt zoning ordinances through the initiative process. In the first, San Diego Building Conractors Ass'n v. City Council 13 Cal. 3d 205 (1974), the court ruled that the voters of San Diego properly adopted by initiative an ordinance establishing a 30 foot height limitation for buildings within a prescribed coastal zone of the city. Justice Clark, however, agreed with a dissenting opinion which argued that the initiative power guaranteed to the voters in the state constitution did not extend to land use regulation.

In Builders Association of Santa Clara - Santa Cruz Counties v. Superior Court, 13 Cal. 3d 225 (1974), the court upheld an initiatve adopted by the voters of San Jose which restricted the zoning of land for residential uses within overcrowded school districts for a two-year study period. Clark dissented, however, on the basis of a minority opinion which asserted that the two-year restriction was an unreasonable infringement on private property rights.

The California Supreme Court again affirmed the constitutional right of California citizens to enact zoning ordinances through the initiative process in a 1980 case, Arnel Development Company v. City of Costa Mesa, 28 Cal. 3d 511. In Arnel, voters adopted an ordinance rezoning 68 acres of undeveloped land from multiple-family to single-family residential use. The purpose of the ordinance was to preserve the low-density character of the affected neighborhood. The owner of 50 of the rezoned acres had intended to develop them into nearly 700 dwelling units, and therefore challenged the ordinance on the grounds it could not be adopted by initiative because zoning was adjudicative rather than legislative in nature. The supreme court upheld the ordinance, citing a long line of decisions in California and other jurisdictions holding zoning to be a legislative action. Clark joined in the dissent, however, which argued that zoning of relatively small acreages was an adjudicative rather than legislative act, and therefore the city was required to hold a public hearing before the ordinance could be adopted.

Urban Development Controls

Several cases involving the power of local governments to regulate urban growth came before the court between 1973 and 1981. In BFB, Ltd. v. Superior Court, 15 Cal. 3d 508 (1975), two property owners challenged an ordinance adopted by the City of Cerritos which rezoned their property from commercial to single-family residential use. The owners sought damages on the grounds the ordinance in effect condemned their property rights. The California Supreme Court rejected their challenge, pointing out that California courts had long held that local governments had authority to regulate land use for the public good even if the market value of some parcels was thereby reduced. So long as affected owners retained the right to make economic use of their property, the court noted, a zoning regulation reasonably calculated to promote the public welfare was proper. Here, the ordinance clearly allowed the owners to develop their property for residential use. Futhermore, the court explained, under well-settled principles an owner's remedy for an

improper zoning action was not a suit for damages, but instead an action to set aside the ordinance.

Clark alone dissented, on the grounds that the California Constitution should be read to require compensation for all downzoning which unfairly occasions a substantial and longterm decrease in the market value of any privately owned land.

In Associated Home Builders v. City of Livermore, 18 Cal. 3d 582 (1976), the court addressed the propriety of a comprehensive growth control initiative by which the voters of the City of Livermore sought to restrict issuance of further building permits until education, sewage treatment and water supply facilities were expanded to accommodate additional residents. The court upheld the initiative as a proper exercise of the city's police power to assure future residents would be afforded the same level of public services and environmental protection as current residents enjoyed.

Clark dissented from the majority opinion solely on the basis of a 1929 decision which the court had long since overruled. Under that early decision, Clark reasoned, citizens were precluded from utilizing the intiative process to regulate land use.

The power of cities to guide urban development through zoning controls which affect property values was again affirmed by the court in Agins v. City of Tiburon, 24 Cal. 3d 226 (1979). In that case a landowner whose five acre parcel was rezoned to permit a maximum density of only five dwellings sued the City of Tiburon for two million dollars in damages. The court rejected the claim, pointing out that the ordinance was properly calculated to protect the unique scenic values of the city, and that the ordinance allowed the owner an economic return from his property. Further, the court noted, even if the ordinance's purpose was impermissible or if it prohibited all reasonable use of the property, the landowner's remedy would be invalidation of the ordinance rather than recovery of the damages from the city.

Clark alone dissented, on the grounds the property owner was constitutionally entitled to recover damages for any diminution in property value occasioned by the ordinance. Clark castigated the court's opinion as a pronouncement that "henceforth in California title to real property will no longer be held in fee simple but rather in trust for whatever purposes and uses a governmental agency exercising legislative power elects, without compensation."

In 1980 the United States Supreme Court affirmed the California court's decision. In a rare unanimous decision, the Supreme Court joined the California Supreme Court in rejecting Justice Clark's hyperbolic attack on the Agins decision. 447 U.S. 225, 100 S.Ct. 2138, 65 L.Ed.2d 106.

In Metromedia, Inc. v. City of San Diego, 26 Cal.3d 848 (1980), the court considered a challenge to the constitutionality of an ordinance which banned off-site billboards and required amortization of existing billboards within the City of San Diego. The court upheld the ordinance as a reasonable means of eliminating traffic hazards and promoting aesthetic beauty in this coastal community. Clark alone dissented, on the grounds the ordinance violated First Amendment interests in free speech. Subsequently the court invalidated the

ordinance, however, after the United States Supreme Court ruled by a plurality that to the extent the ordinance restricted non-commerical speech, it was unconstitutional. Both the California and United Sates Supreme Courts upheld, however, the city's power to ban billboards containing commercial (advertising) speech, contrary to Justice Clark's dissent.

Public Use of Beaches and Waterways

During Justice Clark's tenure the court addressed the public's right to access and use the state's beaches and waterways on several occasions. In a series of three opinions, City of Berkeley v. Superior Court, 26 Cal. 3d 515 (1980), State of California v. Superior Court (Lyons), 29 Cal. 3d 210 (1981), and State of California v. Superior Court (Fogerty), 29 Cal. 3d. 240 (1981), the court carefully delineated the parameters of the "public trust doctrine," a doctrine which protects public use of the state's coastal and inland waterways. In all three cases, the court upheld application of this doctrine to lands underlying coastal and inland waterways, ruling that such lands could not be developed in a manner which would impair public use of these waterways for commerce, recreation and fisheries.

In each case, however, Justice Clark dissented, arguing that the public's interest in these shorezone and submerged lands was limited in scope and could be lost over time to competing private uses. In particular, Clark asserted contrary to the majority's opinion that the public trust doctrine did not extend to lands lying between the high and low water levels of inland streams and lakes.

In County of Los Angeles v. Berk., 26 Cal. 3d 201 (1980), the California Supreme Court affirmed the continuing vitality of the venerable doctrine of implied dedication of public easements over lands which access public beaches. The Berk case concerned a property adjacent to the California coastline used by the public for many years for recreation and for access to an adjacent public beach. Because the owner had acquiesced in public use of his property during this period, the court ruled the doctrine of implied dedication was applicable. Therefore, the court held that the landowner had by implication dedicated a recreational easement over his property in favor of the public.

The lone dissenter was Justice Clark. Clark attacked the doctrine of implied dedication as violative of "constitutional guarantees of property rights," and argued that the long line of decisions applying the doctrine should be overruled.

In San Diego Coast Regional Commission v. See the Sea Ltd., 9 Cal. 3d 888 (1973), Clark wrote a decision which exempted from the provisions of the California Coastal Initiative developers who had commenced construction before the state and regional coastal commissions created by the initiative began operation. The three justices who dissented pointed out that under the rule long followed in California and most other jurisdictions, only developers who make substanital expenditures for construction in good faith reliance on a building permit prior to the effective date of a new law are exempt from its provisions. Clark's opinion, the minority observed, contravened this settled law because it exempted many developers who had not made substantial expenditures for construction in good faith reliance on building permits prior to the intitiative's effective date. As a consequence of Justice Clark's

ruling, thousands of acres of California coastline were exempted from the developmental restrictions of the Coastal Initiative.

In a case concerning protection of the public's right to recreationsal use of navigable waters, Environmental Defense Fund v. East Bay Municipal Utility District, 26 Cal. 3d 183 (1980), Justice Clark authored a decision which held that waters released from federal reservoirs are subject to a provision of the California Constitution which prohibits diversion of water from streams in a manner which unreasonably impairs instream recreational uses. This decision was mandated, however by the United States Supreme Court's reversal and vacation (at 439 U.S. 811, 99 S. Ct. 70, 58 L.Ed.2d 103), of Justice Clark's original opinion in this case, 20 Cal. 3d 327 (1977). In his earlier decision, Clark had ruled that waters released from federal storage facilities were not subject to this constitutional provision. The Supreme Court reversed Clark's ruling on the grounds such waters were indeed subject to state regulation, however, ahd therefore ordered the California Supreme Court to reconsider the matter.

Protection of Agricultural Lands

In Sierra Club v. City of Hayward, 28 Cal. 3d 840 (1981), the court construed the provisions of the California Land Conservation Act of 1965 ("Williamson Act"). That Act permits the owner of agricultural lands to enter into contracts with the local government whereby, in exchange for a reduced property tax assessment of the property, the landowner agrees not to develop the land for at least ten years. In the Hayward case the city cancelled one of these contracts before its expiration date in order to allow the owner to subdivide his ranch for development. The Court overturned the city's cancellation of the contract on the grounds the city had failed to make the special findings required by the Act for contract cancellation. In reaching its decision, the court construed the Act in order to promote its objective of protecting agricultural land. Clark dissented, however, on the grounds the city did not have to make any findings before approving the cancellation.

Environmental Litigation

In Woodland Hills Residents Ass'n v. City Council of Los Angeles, 23 Cal. 3d 917 (1979), the court held that environmental organizations which successfully sue governmental agencies to compel them to follow environmental laws are entitled to recover their attorneys fees under a California statute enacted for that purpose. Justice Clark dissented on the grounds the Woodland Hills suit, which compelled the Los Angeles City Council to comply with certain planning and environmental statutes in considering approval of a major hillside development, did not benefit the public interest.

29-035 O—84——39

ALA American Land Alliance

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October 31, 1983

FEDERAL EXPRESS

Senate Committee on Energy and
Natural Resources
358 Dirksen, Senate Office Building
Washington, D. C. 20510

Dear Senators:

This communication is submitted on behalf of the American Land Alliance, a broad national coalition of citizens concerned with balanced federal land and energy policies, and the protection of constitutional private property rights. Our coalition membership includes such diverse organizations as the Sagebrush Rebellion, Inc., Resource Development Council for Alaska, California Coastal Council, North Tahoe Property Owner's Association, etc., and is led by a respected national advisory board representative of oil, energy, cattle, agriculture, and housing interests throughout the United States.

We submit this correspondence in support of the confirmation of William Clark as our next Secretary of the Interior. We do so with recognition of his limited experience in this field, and the difficulties of the numerous federal land issues confronting this administration. Nevertheless, we believe that this selection process is a Presidential function, in which we vest our national leader with the discretion to appoint responsible and capable professionals to implement administration policies. We believe that Mr. Clark is a gifted, dedicated and highly competent government official who has the inherent ability and balanced sense of integrity to implement and properly manage administration policies affecting our federal lands.

However, our main concern during these confirmation hearings is not the qualification of William Clark, as much as the hypocrisy by which some environmental organizations have used the position of Secretary of Interior to advance their own cause with little regard for the recklessness of their public representations. The same environmental groups, who tomorrow will protest the nomination of William Clark for Secretary of Interior, previously gathered and submitted over one million signatures protesting the appointment of James

2929 Campus Drive, Suite 430, San Mateo, CA 94403, (415) 574-4161

Watt, before he had implemented one single federal policy. In essence, their philosophy is the ultimate double standard. Under President Carter's administration, the entire Department of Interior, Environmental Protection Agency, and Council of Environmental Quality was transferred into an employment agency for former and current environmental leaders. At that time, little was said of their lack of objectivity, of their lack of balance directed toward federal land decisions.

When this nation elected Ronald Reagan to the Presidency, they authorized implementation of his philosophy in land and environmental matters. They did not elect the Sierra Club. They did not elect the Wilderness Society. They did not elect the thousands of nameless faceless bureaucrats who roam the halls of Interior, EPA and CEQ for the sole purpose of implementing their particular philosophy to the disregard of the majority of the American people.

We endorse William Clark as Secretary of the Interior, not because of his policies or background in land and environmental matters, but because of his ability to manange and implement the policies of this Administration in a fair and capable manner.

Sincerely,

Joseph M. Gughemetti

Joseph M. Gughemetti
President

JMG/dg

STATEMENT OF STANLEY G. JONES, SR., CHAIRMAN. THE TULALIP TRIBES OF WASHINGTON STATE BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES AT HEARINGS ON THE NOMINATION OF WILLIAM P. CLARK FOR SECRETARY OF THE INTERIOR, NOVEMBER 2, 1983.

Mr. Chairman, the Tulalip Tribes of Washington State and Indian tribes throughout the United States have a vital interest in the nomination of Judge William P. Clark as Secretary of the Interior.

The Secretary of the Interior helps create, interpret and implement Federal policy towards Indian tribes. He holds in trust some 50 million acres of Indian land and the resources located on these lands. He has a trust relation with more than 800,000 Indian people. He represents the United States in its government-to-government relations with more than 250 tribal governments and more than 200 Alaska village councils. He administers an annual budget of more than $800 million appropriated by the Congress to protect and develop Indian lands, to protect Indian rights, and to provide essential education, welfare, and economic programs to Indian people.

The policy of the United States has a profound impact on the daily lives of Indian people.

We are pleased that the policy of President Reagan continues the progressive Indian policy set forth by President Nixon and affirmed by President Ford and President Carter.

Mr. Chairman, our primary concern over the nomination of Judge Clark relates to the implementation and enforcement of President Reagan's policy and of Indian treaties, federal statutes and federal court decisions.

The Tulalip Tribes, as many tribes in the Northwest, depend largely on income earned through the exercise of our fishing rights. I am a fisherman and I make my living by fishing. The right to fish is secured to the Tulalips in the Treaty of Point Elliott and it is affirmed and clarified by the Supreme Court in United States v. Washington, 443 U.S. 658 (1979). But without fish, our treaty right is an empty right. Without enforcement of our rights by strict limitations on non-Indian fishing, there would be no fish for us. Without the funds requested by the President, appropriated by the Congress, and administered by the Secretary to restore and maintain the Puget Sound fishery, there would be no fish.

I am pleased to report that we have experienced little difficulty with securing support from the Department for the enforcement of our fishing rights. Moreover, the Department has opposed and the Congress has not enacted legislation to override our Supreme Court decision. Requests for fishery funds, however, do not keep pace with actual needs.

We expect Judge Clark to continue to support Indian treaty fishing rights: and we trust that he will take a new look at the adequacy of funding for enhancement and fishery management programs.

The Tulalip Tribes cannot achieve our goal of economic self-reliance through fishing alone. Funding to improve our reservation forests is wholly inadequate. To help achieve our economic goals, we have, with our own money, recently opened a reservation entertainment complex which is centered on gaming. It is owned by the Tribe and managed by our tribal government - the Tulalip Board of Directors. More than ninety percent of the employees are Indians. Profits are used exclusively on community social programs. We are pleased to report that the Department respects our right to conduct reservation gaming activities in the exercise of our rights of self-government.

We expect Judge Clark to act as an advocate within government to protect this right for us and for the many tribal governments lawfully engaged in gaming activities.

We do not want, however, to suggest that all is well in our relations with the Interior Department and the Bureau of Indian Affairs. The BIA frequently acts as a government and law into itself. Judge Clark has his work cut out for him if he is to curb the BIA and succeed in implementing President Reagan's policy.

Let me cite some examples of the breakdown in the administration of Indian affairs.

Tribes throughout the United States need housing improvements. Until recently the Bureau of Indian Affairs housing improvement program allocated funds to tribes in accordance with the priority each tribe assigned to housing in relation to the priorities it assigned to certain other programs for which it is eligible. Thus, tribes could engage in rational planning, and the allocation of housing improvement funds was insulated from the personal preference of BIA central office and area office personnel. However, with the Jobs bill, the BIA itself determined the allocation of funds for home improvements on the basis of its own priorities-- priorities

that in some areas bore no relation to tribal priorities and no relation to unemployment rates. The BIA housing program how appears to be headed in the same, wrong, direction with moneys available under the regular FY 1984 appropriation. Furthermore, it appears that the Division of Housing Services advocates exempting the housing program from the provisions of Public Law 93-638 through budgetary sleight-of-hand.

We hope that members of the Committee will ask Judge Clark to commit himself to reasserting the importance of tribal priorities in the allocation of housing funds and of allowing the housing program to be contracted by tribes under Public Law 93-638.

The BIA increasingly seeks to pass along costs for central office and area office overhead as an offset against reservation-based programs--local programs operated by the tribes under Public Law 93-638 or by the local BIA agency. By this maneuver, it seeks to evade, in part, Presidential and Congressional mandates to reduce administrative costs. The BIA's present treatment of automatic data processing costs during FY 1983 diverted funds away from essential reservation-based programs such as those for forestry and road maintenance. The resulting scandal prompted the Congress to bar this

unfair practice with ADP costs in FY 1984.

We ask that the Committee suggest to Judge Clark that he may wish to issue a policy directive barring changes in the allocation of any central and area office costs to the tribe/agency level without his express approval.

The BIA has proposed sweeping changes in the treatment of the allowable indirect costs payable to tribes when they operate BIA programs under Public Law 93-638. We urge the Committee to ask Judge Clark to postpone implementation of any such changes until FY 1986 and until they have been reviewed thoroughly by the tribes and by the Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs.

One of the most difficult administrative problems facing Indian tribes is the always slow and frequently careless manner in which the BIA notifies tribes and local BIA agencies of the funds available to them in any given fiscal year. Instructions from the central office to the area offices often misinterpret or ignore appropriation statutes, continuing resolutions, and Committee report language. Departmental interpretations differ from Bureau interpretation. Instructions are sometimes so imprecise that differing area offices implement the instructions in conflict-

ing ways. Some funds are allocated six or seven months after they are appropriated and arrive too late to be spent or to be spent in a careful manner. For the tribes, the chaotic administration of funds means lost jobs, lost services, and wasted money. We hope that the Committee will suggest that Judge Clark consider an overhaul of BIA financial management and related administrative services.

Mr. Chairman, in citing these examples, we do not expect Judge Clark to concern himself primarily with the problems of the Tulalip Tribes. We cite them as examples of the kinds of problems that affect many tribes in many ways.

The nomination of Judge Clark offers Indian people and our governments a new opportunity to see President Reagan's policy carried into full effect. It affords Judge Clark an opportunity to use his great skills to help us realize the promise of America. We support Judge Clark's nomination based on the expectation that he will uphold the legal trust responsibility on behalf of Indian tribes commensurate with the highest fiduciary standards.

Defenders OF WILDLIFE

Official Committee Fi

November 1, 1983

SENATE COMM
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WASHINGTON, D.C. 20510

Senator James McClure, Chairman
Committee on Energy and Natural Resources
360 Dirksen Building
Washington, D.C. 20510

Dear Senator McClure:

Please accept these comments concerning the nomination of William Clark to be Secretary of the Interior. We'd appreciate your placing them in the official hearing record.

Defenders of Wildlife is a national nonprofit organization concerned with the preservation of our native wildlife and its habitat. We have approximately 100,000 supporters throughout the country. No single issue has united our membership more than the appointment of Mr. James Watt to be Secretary of the Interior - Chief Steward of our treasured wildlife resources. Our members and staff were appalled that the Reagan Administration, through Secretary Watt, could express such consistent and callous disregard for wildlife values by accelerating the assault on our national wildlife refuges, parks, and wilderness areas, pressuring EPA to re-register Compound 1080, demoralizing federal wildlife managers in the Interior Department, and other unwise policy changes too numerous to mention.

Before your committee now is President Reagan's new appointee, Mr. William P. Clark. We have researched Mr. Clark's record and are genuinely concerned and mystified as to why the President would select a man so obviously inexperienced with respect to the stewardship of our nation's wildlife and natural resources. His credentials appear to be chiefly loyalty to the President and an ability to conciliate opposing parties. While these are admirable traits, we are deeply concerned that a position as critical as Interior Secretary really should be filled by an individual who has demonstrated expertise in natural resource management, understands the complex issues in the Interior Department, and who will exercise independent judgment with respect to the balancing of competing interests.

We would support an individual who is clearly capable of practicing stewardship of our lands, and who expresses some interest and willingness to challenge the policies of the Reagan Administration when it is necessary to protect our natural resources. While we hold no ill-will toward Mr. Clark, we do find that we cannot support his confirmation as Secretary of the Interior, because the position demands a standard of direct experience which he unfortunately does not possess.

Defenders of Wildlife strongly urges the committee to review this candidate's credentials, motivations, and experience very closely. A rubber-stamping of this nomination will continue business as usual. The American people have a right to expect more.

We appreciate the opportunity to express our views on the nomination of Mr. William Clark, and hope that you will consider them as you question the nominee in the hearings.

Sincerely yours,

Allen E. Smith
President

SUGGESTED QUESTIONS

QUESTION: Judge Clark, the Bureau of Land Management has admitted that there are excess wild horses and burros on the public lands ... that there are so many horses and burros on these lands that they are causing damage to range resources. Do you believe that these feral animals can be managed properly under current law?

QUESTION: For the last couple of years, the Office of Management and Budget has sent requests to Interior to support legislation to immediately raise the grazing fees on the public lands. Currently these fees are set by a formula mandated by the Public Rangelands Improvement Act of 1978 which also requires BLM and the Forest Service to study the fee formula and to make a report to Congress by the end of 1985. Do you think that this continued pressure from OBM prejudices this study?

QUESTION: Interior has a citizen advisory group on BLM issues called the "National Public Lands Advisory Council." Appointments to this group are now on a staggered basis and there will be seven vacancies at the end of this year. Do you feel that conservation and environmental interests should be represented on this advisory group so that it is balanced among all public land interests?

QUESTION: In the last couple of years there have some changes in BLM livestock grazing policies. I assume you have been briefed on some of these policies. Do you intend to continue these policies or do you see any need for revising them?

QUESTION: There was a puzzling announcement several weeks ago that Interior no longer considered itself part of the Administration's program or initiative to sell excess lands or properties. And, as you know, Congress cut back the funds requested by Interior for its so-called asset management program. Can you clarify what is the current relationship of Interior's program to the White House Property Review Board and what are your views with respect to selling more public lands? Do you think we should sell more lands than we have been in recent years?

QUESTION: In evaluating the cost-effectiveness of BLM's range program budget, do we need to consider more than the forage produced for livestock operators? In other words, do we need to consider--and are there ways to ~~measure--benefits that~~ accrue to wildlife, recreation, and water ~~resources?~~

QUESTION: The last couple of budgets submitted by the Administration for BLM grazing management proposed large decreases in federal funds and a shifting of costs to the livestock operators. Do you believe there are adequate incentives to livestock permittees to encourage then to make large private investments in improvements on the public lands and to agree to perform maintenance on improvements constructed by the agency?

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SUPPLEMENTAL

STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL

FOR THE HEARINGS ON THE NOMINATION OF

JUDGE CLARK AS SECRETARY OF INTERIOR BEFORE THE

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Prepared by:

Sarah Chasis
November 4, 1983

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The Natural Resources Defense Council (NRDC) submits this statement as a supplement to the testimony of Charles H. Callison, Director of the Public Lands Institute of NRDC. We submit this additional statement for the purpose of bringing to this Committee's attention one of the key programs we believe is in need of drastic revision by the incoming Secretary of the Interior. This is the Watt 5-Year Offshore Oil and Gas Leasing Program, adopted in July 1982, which makes 1 billion acres -- virtually the entire OCS -- available for lease over the next five years. This is twenty-five times the amount of acreage offered in the entire history of OCS leasing from 1953 to 1980. It is essential that any incoming Secretary of the Interior commit to modifying this massive leasing program in light of the following facts.

First, the program has engendered enormous opposition and unprecedented litigation which has led to significant delays in leasing. Six of 10 sales scheduled during the first 16 months of the Watt Program (July 1982 - October 1983) have been challenged on environmental grounds by 5 coastal states, several local governments and conservation organizations. This contrasts with a total of 5 lawsuits challenging 20 lease sales on environmental grounds, brought in the 5-year period from the passage of the Outer Continental Shelf Lands Act Amendments of 1978 until adoption of the Watt Program. As a result of the extensive litigation on the Watt Program, one sale has been stopped (Sale 52 in the North Atlantic), issuance of all or a portion of the leases for two sales has been enjoined (Sale 70

in Alaska and Reoffering Sale No. 2 in the Mid-Atlantic), two sales are still under legal challenge (Sales 57 and 71, both in Alaska), and the sixth sale engendered so little industry interest that the lawsuits filed by three coastal states were dropped.

Second, in order to protect particularly significant coastal areas from the Watt Program, Congress has had to place limitations on leasing. Because Watt has consistently refused to delete sensitive coastal areas from his leasing program, Congress, through the appropriations process, has had to prohibit Watt from offering such areas for sale. For example, the FY 1984 Interior Appropriations bill prohibits leasing off substantial portions of the California, Massachusetts and Florida coastlines. The need for Congressional action underscores the excesses of the current leasing program.

Third, industry has not even been interested in the vast acreage offered under the Watt Program. The need for the Watt Program's massive lease offerings -- totalling 1 billion acres, or virtually the entire OCS, within five years -- is drawn into serious question by the fact that less than 7 percent of the acreage offered for lease since adoption of the Watt Program has even been bid upon and leased by industry (8,185,821 acres bid upon and 7,698,736 acres leased, out of a total of 123,164,855 acres offered).

Fourth, the revenues generated by the Watt Program are way below expectations. The FY '83 revenues from lease sales amounted to $8.409 billion, $4.7 billion less than the Interior

Department's estimate of $13.1 billion.*

In conclusion, the Watt Program is not meeting its stated goals of expediting OCS lease sales, reducing litigation, or generating huge increases in revenues. In light of the problems and tremendous controversy surrounding the Program, it is essential that the new Secretary of the Interior commit to taking steps immediately to modify this program.

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* This estimate of $13.1 billion is referenced in GAO Report No. EMD-82-83, "Outlook for Achieving Fiscal Year 1983 Offshore Revenue Estimate -- Possible But Not Likely," p.6 (June 8, 1982).

29-035 O—84——40

Submitted FOR THE RECORD by: National Democratic Policy Committee

Mother Nature Kills German Forests

by Lyndon H. LaRouche, Jr.

***New Solidarity* proudly publishes here the first chapter of a new book authored by Lyndon H. LaRouche, Jr., entitled *German Forests*, to be published in its entirety by The New Benjamin Franklin Publishing House.**

Between March 28 and April 4, 1982, El Chichón, Mexican Yucatán peninsula, rumbled, steamed, and exploded, putting an estimated 3 to 4 cubic kilometers of material into the Earth's atmosphere. This act of massive pollution by Mother Nature included an estimated 15 million tons of sulfur and its compounds, 15 percent of the total of the world's industry in a year.

What goes up, usually comes down. The pollution put into the Earth's upper atmosphere by El Chichón gradually settled down, sometimes falling back to Earth as polluted rain. In Germany, the clamor erupted: "The forests are dying! We must save the forest!"

As a matter of pagan beliefs, many Germans insisted that it was industry which was responsible for the death of the forests. To such fanatics, the culprit must be industry, whether the charge was true or not. What about the pollution from El Chichón? Facts mean nothing to today's so-called "ecologists," especially when the facts prove that it is Mother Nature herself who is the culprit.

There was another fact which the pagans of Germany overlooked in their zeal to reduce employment among Germany's trade union members. Even forests, like babies, must be fed or they may die. Forests require, generally, a minimum rainfall of 90 centimeters per year; the dying portions of the German forests were not dying of lack of rainfall. Forests must not only drink; they must be fed.

Decade after decade, cut trees are harvested from the forests and hauled off to the lumber mill or the paper mill. In each tree carried away, there are some of the essential chemical compounds the tree has taken from the soil, chemical compounds without which future trees can not grow properly, or, ultimately, even grow at all. It is the same as with the farmer's need to put chemical fertilizers and essential trace-elements back into his soil, if he expects to have healthy crops in the future.

Suppose we do not feed the forests from which timber is being harvested decade after decade? Eventually, the forest will die of hunger. Also, like any undernourished human being, or other living organism, undernourished trees are more vulnerable to diseases and poisons than well-fed trees. The German forests are not suffering from too much chemical output of industry, but from too little: too little chemical nourishment of the sort needed to maintain the soil in the condition for growing healthy trees.

Classical Cases: Primitive Uses of Rain Forests

The classical case of destruction of a forest in recent times is the cutting of vast tracts of the Brazilian rain forest. Some of the cutting was done to clear areas for labor-intensive farming. Some was cut to produce charcoal for making steel. In both cases, the cutting was imposed upon Brazil chiefly by outside pressures. The labor-intensive agriculture projects were based on the philosophy of the World Bank and Brandt Commission, the so-called "appropriate technologies" dogma, which argues that countries below the Tropic of Cancer should not use modern agronomy, modern industry, but only "appropriate," labor-intensive agriculture, and small, primitive, local industries. The use of charcoal for making steel goes back to 16th century Europe; it was proposed to Brazil as a way of saving on foreign imports of petroleum and coal, and as a way of not investing in developing Brazil's own nuclear and fossil fuel potentialities.

The result of these "appropriate technologies" practices was a disaster, potentially a global ecological disaster.

The heavy rains on a rain forest area wash out the chemicals from the soil year after year. As a result, nearly all of the chemicals essential for plant life in such forests are stored in the trees themselves. The classic case of ignoring this fact is the collapse of the ancient culture of Angkor Wat in Kampuchea. If trees are removed, and slash-and-burn methods of "appropriate technology" are used to clear the rain forest area for primitive, labor-intensive methods of agriculture, the soil very soon turns into a rock-like substance called laterite, a poor grade of aluminum ore. Agriculture collapses after a few years of such "appropriate technology," a fact repeated quickly in the case of Brazil.

Giant rain forests have another ecological function. They exert a great degree of control over the world's weather. The moisture sent into the atmosphere by trees forms a rising column, a column of warm moisture rising into the stratosphere, which is an essential part of maintaining a large, permanent high-pressure area. Destroy a large part of such a forest, and the world's weather will change, as cutting of the Brazilian rain forest caused such a change.

This effect is not limited to rain forests. Pressures by international financial agencies pushed some nations of the African Sahel region to intensify taxation of parts of their populations engaged in grazing of herds. To pay the taxes, the grazing was increased. Overgrazing destroyed the barrier between the semi-arid Sahel and the deserts; the cessation of moisture-flows into the atmosphere because of this, was sufficient to cause a shift in weather patterns in northern Africa, interacting with effects of a shift of the Amazon High. Semi-arid regions of the Sahel were transformed into a creeping desert. With industrial modes of water-management and related technologies, this desertification of the Sahel region can be reversed.

In India, a lack of industrial fuels for households pushed rural populations into stripping large regions, including the Himalayan foothills, of trees and brush. Forests not only maintain watersheds, essential for regulating stable brooks, and rivers, as well as underground water levels. Forests consume a relatively large percentile of the sunlight falling upon the area, turning the sunlight into biomass, and moderating the temperature of the adjoining area. India's water problems increased, and entire regions once comfortable during the hot season of the year have risen in average temperature, to become unbearably hot.

It is not the growth of industry which destroys the world's forests. In most cases, the cause is a lack of industrial output, a lack of good industrial management of the eco-sphere. Over the past fifteen years, the greatest single cause for destruction of the world's "ecology" has been the toleration of the policies demanded by the so-called "ecologists," the so-called "neo-Malthusians" of the Club of Rome, of the International Institute for Applied Systems Analysis (IIASA), of the World Wildlife Fund, the Aspen Institute, the Ford Foundation, the Rockefeller Foundation, the U.S. Sierra Club, and so forth and so on. We are not putting enough industrially-produced energy, in the form of water management, chemicals, and so forth, into the farming of the Earth's biosphere. At the same time, we are using biomass for fuel and other "traditional" uses, in cases we should be using nuclear-generated energy supplies, and using modern, industrially produced materials in place of timber for housing and so forth.

Meanwhile, at the opposite extreme, since approximately the 1930s in Germany, some of us have been planning mankind's exploration and colonization of space. During the 1950s and 1960s, well-designed plans for human colonization of the Moon and Mars began to be developed. With development and use of controlled thermonuclear fusion, frequent travel between Mars and a large, orbiting space-station parked near the Earth would become practicable. With thermonuclear fusion energy and use of directed-beam technologies, including high-powered lasers, we will have the basic repertoire of technologies needed to create and maintain "artificial Earth-like" environments on the Moon or Mars, probably beginning with the use of Earth's natural orbiting-satellite space-station, the Moon, as a logistical base in nearby space from which to launch the long leg of exploration of nearby and deep space.

Can mankind construct a forest on Mars? If we resume the rates of technological progress we may remember from the pre-1967 period of research and development efforts of the U.S.A.'s National Aeronautics and Space Administration (NASA), we will be able to do just that during the twenty-first century. With thermonuclear fusion technologies we shall possess cheaply-produced, abundant energy supplies in the needed quantities at the best cost required to develop the necessary artificial Earth-like environments under "plastic bubbles." With directed-beam technologies, such as high-powered lasers and coherent particle-beams, and with related classes of technology of relativistic physics, the productive power of an average human individual will soon to between ten and a hundred times that on Earth today. With aid of progress in bio-technology, we shall be able to engineer properties into trees and other plants to produce types suited to the conditions of artificial, Earth-like environments.

If this is possible during a period less than a century ahead, why can we not solve the much less challenging problems of improving the ecology of Earth today? With the combinations of very high energy-flux density thermonuclear fusion, directed-beam and related technologies, and bio-technology, we can manufacture air, water, and so forth where they do not exist today in space, and can provide plant life the properties needed to cope with special problems; perhaps we might even develop a new, improved version of chlorophyll, to double or treble the energy-gathering powers of the plant life. Today, we either have such technologies, or are at the edge of mastering them. When then, do we continue to tolerate conditions on Earth which even existing technologies are proven capable of solving?

There Are No Limits to Growth

The reason for these miserable conditions is simple reason. Some people, people with a great deal of power over the periodicals, universities, financial institutions, and political parties of much of the world, simply do not wish society to solve these problems.

Take the case of a fellow known as Rudolf Bahro. This fellow once enjoyed an international reputation as a great fighter for freedom and human welfare generally, at the point he was in the process of leaving East Germany (the German Democratic Republic) for sanctuary in the West. Many of us suspect that the East German government was delighted to see its competitor, West Germany, enjoy the benefits of Herr Bahro's advice. In mid-March, 1985, Herr Bahro presented an audience some seeds held in his hand—presumably seeds of grain—and declared that these seeds represented the beginning of the evils which afflict man today.

Some very basic facts about the economic history and prehistory of human life on earth show exactly what Herr Bahro was implicitly proposing.

The lowest form of human life known is what is called a hunting" and gathering society," the kind of society to which mankind would presumably re

turn if Herr Bahro's demands were accepted. In such a form of society, an area of between ten and fifteen square kilometers of the habitable surface of the Earth is required to sustain an average individual. This means a total human population of the Earth of never more than approximately ten millions individuals presently living on Earth, who he proposes to kill, in order to reduce the population levels down to those possible without the "agricultural revolution" which occurred most probably ten to twelve thousand years ago?

Not only is such a pre-agricultural-revolution form of society a very thinly-populated society. The prevailing life expectancy is significantly less than twenty years of age, and the life of each local tribe as a whole is extremely precarious. Although Herr Bahro has not stated that he proposed to boycott the food and fiber produced by the agricultural revolution, he seems otherwise sincere in asserting that he considers it a mistake ever to have left the spiritually invigorating cultural climate of the extinct South African strandlooper, pelting to death washed up, dying fish and what-not which the surf has cast upon the beach.

Admittedly, Herr Bahro's views are presently those of an extremely eccentric, although organized and growing, tiny minority. Nonetheless, his views are only the most extreme version of the broader spectrum of neo-Malthusian dogmatists generally. So-called "environmentalists" or "ecologists" infest increasingly large portions of most major political parties, as well as the variously neo-Nazi-led and "leftist" varieties of "anti-technology" sects. Moreover, most of the major news media, the major entertainment-media, the courts, legislatures, and powerful, very wealthy foundations, are more or less saturated with neo-Malthusian policies and pro-Club of Rome propaganda.

During recent years, it has been overlooked, how recent the mass-based "ecologist" movements are. The first movements were organized, top-down at the end of 1969, pulling together remnants of the 1950s Ban the Bomb movements, the 1965-1969 anti-Vietnam War movements, and the New Left generally, on both sides of the Atlantic. "Sun Day," during spring 1970, was the first of the demonstrations organized top-down by governmental agencies and private foundations for the "ecologist causes." The banning of the pesticide DDT, (on fraudulent pretexts), and the campaign against nuclear energy came only slightly later. The spread of this ideology is little more than ten years old.

The present-day neo-Malthusian organizing did not really get under way outside the ranks of the "re-programmed leftists" until 1972, with the publication of a book called *Limits to Growth*. This book's production was sponsored by the Club of Rome, and its publication was used to launch the public relations campaign which made the Club of Rome almost an instant major policy-influencing institution.

The *Limits to Growth* was based on a computer-assisted study conducted under the direction of two professors from the Massachusetts Institute of Technology (U.S.A.), Dennis Meadows and Jay Forrester. The study itself was most conspicuously fraudulent on two leading counts. First, in attempting to prove that industrial society was using up its remaining natural resources very rapidly, Meadows and Forrester greatly understated the known quantities of such resources. Second, more important, Meadows and Forrester projected the rate of consumption of natural resources by using systems of simultaneous linear equations. The very use of such linear equations for a computer "model" of that sort, builds into the computer projections the assumption that absolutely no technological progress is occurring in society. In fact, technological progress, including fundamental redefinitions of what "natural resources" means, has been the outstanding feature of European civilization for five hundred years. The *Limits of Growth* depended upon the assumption that such technological progress had come to a sudden, absolute stop.

How could anyone have believed such nonsense? Every qualified scientist knew that the kinds of arguments used by the Club of Rome were a fraud. Most engineers knew it. Industrial corporations knew it. If the news media checked with scientists, they, too, would have known it. If governments and political parties had behaved responsibly, they would have denounced the Club of Rome and its *Limits of Growth* as a monstrous hoax.

If we are running out of coal, and we do have about 200 years known supply at present rates of consumption, why not use more abundant nuclear energy, and why not concentrate on speeding up development of almost unlimited resources of thermonuclear fusion? We are not running out of petroleum either; we are discovering vast new petroleum fields faster than we use up the old fields. However, if we are worried about carbon dioxide build ups and other pollution caused by fossil fuel combustion, why not shift at an accelerating rate into nuclear and thermonuclear generation of process-heat?

"Radioactivity"? Nonsense! A nuclear energy plant radiates less radioactive waste into the environment than a coal-fired plant generating the same number of kilowatt-hours. A nuclear plant radiates less radiactivity into the environment than a brick wall. A person leaning against a nuclear plant receives less radioactivity than while travelling in a transatlantic jet, or a weekend's ski trip in the U.S. Rocky Mountains or Swiss Alps. If one is concerned about such levels of radioactivity, one ought to insist that never more than two (naturally slightly radioactive) human bodies ought to be allowed in the same bed.

"Nuclear plant accidents"? The "lesson of Three Mile Island" in Pennsylvania is, first, that the combination of circumstances involved could occur only through sabotage, and, second, that the "accident" proved totally the perfection of the safety precautions built into nuclear plants today. The tales of the "China Syndrome" and other Grimm stories issued by the news media were all a deliberate hoax, a lie, as every investigation of the matter proved during and after the "accident."

To cause a nuclear accident, either one would have to drop a nuclear bomb directly onto the plant, or carry in and place the most sophisticated combination of shaped charges imaginable. In any case, the mass of steel and concrete built into such plants make them the most bomb-proof structures presently in existence in the world. If we employ nuclear fuels of the thorium-cycle, for example, even the infinitesimal possibilities for some degree of nuclear accident become approximately absolute zero.

Table 1:
Energy-Flux Density

Energy Source	Density in Kilowatts/Square Meter
Solar—Biomass	0.000
Solar—Earth surface	0.2
Solar—near-Sun orbit (5 millions miles)	1.4
Fossil Fuels	10,000.00
Solar—at Sun's surface	20,000.00
Fission	70,000.00
Fusion (first commercial types)	70,000.00
Fusion (next century)	$10^{[illegible]}$ +

Table 2:
Comparison of Delivered Electrical Power
(in U.S.A.-$)

	Total Energy Costs mills/kw-hr	Total Energy Prices mills/kw-hr	Capital Invested billions
Oil	25.1	45.7	0.94
Coal	24.2	31.7	0.97
Coal Gas	41.7	55.7	1.67
Light Water Nuclear	27.8	28.5	1.19
Fast Breeder	33.7	33.9	1.43
Fusion (early types)	45.2	45.2	1.92
Solar Collector	490.0	490.0	20.9
Solar Cells	680.0	680.0	28.9

(Source: Fusion Energy Foundation, U.S.A.)

All this is well-known, even by the scientifically-trained liars trotted out as "authorities" by the anti-nuclear propagandists.

In the case of thermonuclear fusion, the possibility of nuclear accidents is automatically absolutely zero. The components of a thermonuclear reaction, such as those used in hydrogen bombs, are either a combination of lithium and an isotope of hydrogen, deuterium, or deuterium and tritium, the latter another isotope of hydrogen, or deuterium and deuterium, the latter two combinations produce so-called "clean explosions," without primary radioactive fall-out. To cause a thermonuclear ignition requires temperature equivalents in the order of between 5×10^7 and 5×10^8 degrees Kelvin, and even then, the ignition will not occur without the proper physical principles of precise hydrodynamic self-focusing of the material, to effect what is called *isentropic compression*. Any disruption, such as an accident or being hit directly by a 10 megaton bomb, means that the plant's thermonuclear reaction stops abruptly.

Thermonuclear fusion is far superior to nuclear fission, but we require large-scale use of nuclear fission to supply the energy needed to develop a thermonuclear fusion-based economy. Some measures are helpful in making the point.

In the statistical theory of heat, today, we measure the level of heat processes in units we call *energy-flux density*. This measures the number of kilowatt-hours passing through an area of cross section of the heat-generating process. The following two tables, compiled in 1979, show the comparative energy-flux densities of various sources of energy, and also the comparative costs of electrical energy produced using such sources.

The simplest of the physical principles involved in choosing among energy sources is that the higher the level of energy-flux density, the more efficient the energy source is. Not only is less heat wasted, but the higher the energy-flux density, the greater the potential of the process-heat to accomplish work.

To appreciate the importance of this, including the important question of maintaining forests, we must consider another important kind of figure. This figure has a name which may appear frightening to the layman at first glance; we shall show that it is easily understood. This datum is named *potential relative population-density*. We explain the meaning of this figure, and then show its relationship to the business of maintaining forests.

Given a population inhabitating a certain territory, and let the territory be measured in square kilometers of habitable area. By developing and using the natural resources available in that area, how many people can be maintained through the work of the population's labor force? On the average, the answer is given as the average number of persons per average square-kilometer. Persons per square-kilometer is *population-density*.

That figure is not an adequate measurement. Land varies in quality, so that one square-kilometer is not of the same quality for human habitation as another square-kilometer. Those desirable qualities of land, which express such differences, are variable qualities. Man may improve the land, or deplete it. The quality of land is the not result of combined depletions and improvements of its qualities. Therefore, we say that the value of all square-kilometers are not the same, they are different, and they are variable. Therefore, we must measure population-density in terms of relative qualities of the land inhabited: *relative population-density*.

The present level of population is not necessarily a measurement of what the population level could be. We must determine what that population could become, as a maximum, given the kind of production technologies presently in use. What is the *potential* level of population, given the technologies? That is the general meaning of *potential relative population-density*.

We have already indicated that the potential relative population-density of primitive society is about 0.06 to 0.01/square-kilometer: about 10 millions maximum population. There exist today approximately 4.5 billions individuals, more than [illegible] times the levels of primitive man. Since a factor of "10" is called *one order of magnitude*, this means that mankind has raised its potential relative population-density by two orders of magnitude. With full use of existing levels of technology, combined with the thermonuclear, directed-beam, and biotechnology coming into existence now, our planet could sustain a population of tens of billions of persons, and at an average standard of living higher than that for the United States during the early 1970s: a rise above primitive society by *three orders of magnitude!*

No beast, or any other lower form of life could wilfully increase its potential relative population-density by even one order of magnitude. Man is fundamentally different from the beasts. Man is not merely a creature of instinctive potentialities, a mere creature of animal-like perceptions of pleasure and pain. Man is somehow very different. Man has the potential of Reason, the power to make creative discoveries which advance scientific knowledge, and to convert such scientific advances into advances in technology. We are able to uncover, with increasing perfection, the lawful, universal principles which order universal creation, and to master nature with increasing power, through guiding ourselves to change our ways of behavior in accordance with universal laws.

The successive technological advances accu-
ulated by human culture since the level of Herr
ahro's utopia, have increased man's potential
lative population-density by between two and
ree orders of magnitude.

This technological progress, this increase in
uman potential, has been accomplished by an in-
easing command over energy. Beginning with the
ricultural revolution, and ocean fishing in boats
rlier, mankind has increased the amount of use-
l energy available to the average individual, and
as increased the number of kilowatt-hours' value
the amount of usable energy obtained by soci-
y per square-kilometer. Today, we can roughly
easure the fertility of agricultural land by the
nount of "artificial energy" used per hectare by
e farmer: chemical energy of fertilizers, trace-
ement additions, pesticides, and electrical and
her industrially-produced energy forms used for
rigation, powered machinery, and so forth. Sim-
arly, in industry and transportation, the produc-
ve powers of the average member of the labor
rce are measured in first approximation by the
mount of industrially-produced energy used per
pita.

This technological progress is not merely an
ailable option. The authors of the *Limits to*
owth are right on one point, although perhaps
is was an unintentional feature of their book. If,
any point, we halt technological progress, the
ciety foolish enough to do such a thing con-
mns itself to die.

Any level of productive technology requires a
rtain array of *raw materials* produced by agri-
lture, fishing, forestry, mining, and so forth. This
what we work up from the Earth around us into
imary materials of production and other con-
mption. For any level of technology and human
nsumption, the amount of each such kind of raw
aterial approximates an *average* requirement
r capita.

The production of such primary materials
erefore requires some definite proceentile of the
tire labor force of the society. Only the remain-
r of the labor force, after deducting this per-
ntile, is available for other forms of labor. As a
ciety uses up some of the richest and most ac-
ssible natural sources of raw materials-produc-
n, the amount of labor a society must expend
produce a constant per capita amount of raw
aterials rises. This rise in cost lowers the pro-
ctivity of labor on the average. Fewer individ-
als can be sustained, on the average, by the out-
t produced by an average member of the labor
rce. In other words, the potential relative pop-
ation-density falls. If the technology of produc-
n remains constant, the rise in costs caused by
pletion of critical kinds of natural resources is
rise which continues without limit. Therefore,
r this reason, the potential relative population-
nsity would fall without limit under those con-
itions.

At the point the society's potential relative pop-
ation-density falls below the population-density
the existing population, the Four Horsemen of
e Apocalypse enter. Famine promotes desper-
e strife. War and bloody civil commotions worsen
the conditions of famine. The famine-stricken
opulation becomes a breeder of disease, spiraling
into epidemics and pandemics, as was the case
uring the early 14th century Europe. The break-
own of agriculture and hygienic institutions pro-
otes the eruptions of pestilences. The society is
nquered, collapses, or changes its ways abrupt-

Technological progress prevents such catastro-
phes in two related ways. First, simply by increas-
ing the productive powers of labor, technological
progress overcomes the rising costs of production
of essential raw materials. Second, technological
revolutions redefine the range of usable natural
resources, and introduce new kinds of raw mate-
rials to the bill of requirements, just as the in-
dustrial revolution's use of coal overcame the
threatened collapse of Europe caused by exhaus-
tion of forests.

Technological progress is indispensable even
to maintain a constant level of potential relative
population-density. Therefore, constantly rising
levels of energy supplies, both per square-kilo-
meter and per capita, are indispensable to the
survival of society. These growing energy supplies
must become relatively cheaper: the cost of pro-
ducing the average amount of increased energy
per capita must tend to be significantly less than
the old cost of producing less energy per capita.
The energy-flux density of energy supplies must
also increase, at least in a general way. There must
also be periodic revolutions in the definition of
the terms "natural resources," even under condi-
tions of a constant potential relative population-
density.

Growing Forests on Mars

In connection with matters of agriculture and
forestry, there exists today the widespread, but
false opinion that the fertility of the soil for ag-
riculture lies essentially with an assumedly nat-
ural fertility of land. This was, more or less ex-
actly, the argument submitted by the radically
feudalist faction of 18th century France, the so-
called Physiocrats. The history of agriculture in
the United States, since it began during the 17th
century, is perhaps the best case with aid of which
to demonstrate the absurdity of the Physiocratic
opinion. Notable, of course, is the case of Califor-
nia's Imperial Valley, today the most valuable ag-
ricultural land on Earth, which was, but a few dec-
ades ago, a desert. This case is exceptional in de-
gree, but not in matters of principle. Virtually the
entirety of the richness of agriculture in the United
States and the earlier settlements was created out
of an infertile, stubborn wilderness by means of
processes of man-imposed improvements in land,
improvements analogous to the investment and
improvement of industrial capital. In Europe,
where a longer occupation of the land by agricul-
ture is the case, the same demonstration is im-
mediately clear to all who know agriculture, but
is less dramatically demonstrated than in the rel-
atively brief history of agriculture in the United
States.

Otherwise, one of the clearest demonstrations
of the same principle is the case of the forests of
Germany, which are, with the rarest exceptions,
man-made creations, not natural occurrences. They
are not forests, but better described as tree-farms,
a point immediately clear to any visitor to those
pleasant parks (called forests) who has firsthand
recollections of struggling through a primitive
jungle or temperate zone forest. Yet, these "arti-
ficial" German forests are not to be despised be-
cause they are not "natural," any more than one
would despise the produce of agriculture on our
tables, on grounds that the tropical melons are not
poisonous, like the ancestors of our melons in their
"natural" occurrence. These "artificial forests" are
better than those naturally occurring, on many im-
portant points; if they are not, it is because the
tree-farmer is not meeting his responsibilities of
a farmer. To the point, a good forest must be wood-
ed, like a farmer's field, to the effect of producing
a healthier forest than would occur "naturally."

A forest, like agriculture generally, is a biolog-
ical system. All biological systems, except dying
ones, are characterized by a property called *neg-*
entropy. Over successful cycles of their growth, they
embody greater energy than earlier, and such sys-
tems are ranked by the equivalent of energy-flux
density per unit of mass-weight. Their potentiali-
ties of growth, of quality of growth, and powers of
resistance to various injuries, vary with the nour-
ishment provided by their environment. Above all,
they require relatively abundant energy, energy
organized in those forms they can assimilate it.

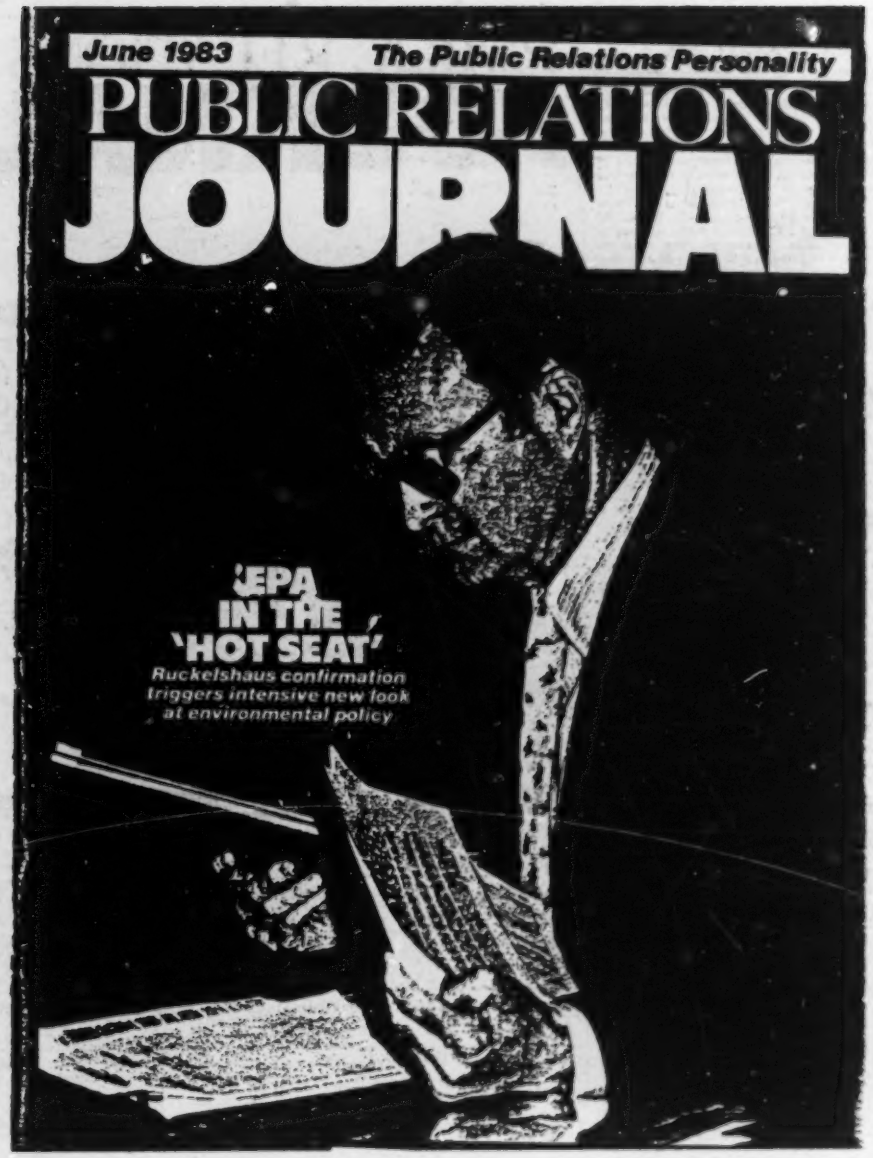
A striking illustration of the point was accom-
plished in Wales, Britain, by experimenters work-
ing with flax plants. It was demonstrated repeat-
edly, that by affording young flax plants the prop-
er environment of temperature and nourishment,
a change occurred in these plants. This change
proved to be fully hereditable, although no genet-
ic change had occurred. This heredity persisted
in daughter, granddaughter, and great-grand-
daughter, and so forth, plants, even though those
later generations had been reproduced under
normal conditions, without the special conditions
of temperature and nourishment employed to pro-
duce the original change.

Otherwise, in cases in which no environment-
directed hereditable change occurs in plants, su-
perior strains of plants usually require enhanced
environments, especially nutrition. This enhance-
ment takes the included forms of water-manage-
ment and soil-treatment, and sometimes "hot-
house" preparation of the seedlings before trans-
planting. All of this requires industrially-pro-
duced "artificial energy," and all of this translates
into increased supplies of such "artificial energy"
per hectare, whether for forest or farm. In Ger-
many, therefore, one of the best friends of the field
and forest is, traditionally, the BASF chemical
plant.

It is most helpful to think about developing a
forest under an artificial, bubble-covered, Earth-
like environment on Mars. It is the proper point
of view for thinking about problems of maintain-
ing and improving the environment on earth.
Forcing ourselves to solve the problems associ-
ated with growing a forest on Mars, has the added
benefit of forcing us to develop techniques which
will be of considerable benefit to maintaining the
forests on Earth.

On Mars or Earth, we require the benefits of
technological progress for such undertakings. We
require not only new technology for treating pro-
blems of the biosphere. We require the energy
supplies such work implies. It is also indispen-
sable that we cheapen the social cost of doing such
work, through increasing the productive powers
of society.

In general principles, this is not new. The prin-
ciples have been known to Europe, in particular,
for centuries. We must ask how and why people
and institutions of considerable prestige, wealth,
and influence, would have produced a doctrine as
dangerously absurd as the neo-Malthusianism of
the Club of Rome?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IN THE
'HOT SEAT'
Ruckelshaus confirmation
triggers intensive new look
at environmental policy

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Cover: *William D. Ruckelshaus, new administrator of the Environmental Protection Agency, testifies during Senate confirmation hearing. Photo by Stephen Delaney, EPA.*

Art Credit: *Janet Dyer, page 25*

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Correction: In the May issue's "Audiovisual" column, the videomagazine Videofashion Monthly *was incorrectly referred to as* Videocassette Monthly.

NEW BROOM OR OLD HAT?

Amidst mounting political infighting and intensive investigations, William Ruckelshaus comes back to head EPA—to do what, to whom, and for how long?

Michael J. Bennett

Photo by Stephen Delaney

William Ruckelshaus

CONGRESS is being inexorably forced into a review of the nation's basic environmental policy—and business and industry have an unparalleled opportunity to benefit.

The unanimous Senate confirmation of William Ruckelshaus as administrator of the Environmental Protection Agency could, ironically enough, lead to the decline of the powerful environmental movement. It may be reduced to the status of just another splinter lobby of semi-hysterical, upper-middle-class visionaries with little or no political clout.

Mr. Ruckelshaus and the movement inevitably will have to face up to their past records, and the revelations will hurt.

The premises and assumptions of the movement—as well as those of Federal agencies with environmental responsibilities—in recent years have come under increasing and sometimes virulent attack by scientists, intellectuals, labor and even civil rights leaders. Books and articles, written from every perspective of the political spectrum, have analyzed, interpreted and denounced the methods and motives of environmentalists, both inside and outside government.

But those voices have been muted because the media weren't listening.

Even the *Washington Post*—the heart, if not the brain, of the media establishment—has said in an editorial that review of basic environmental policy is "badly overdue."

The newspaper conceded for the first time that "the benefits of pollution control are very substantial, but it's worth keeping an eye on the costs as well." Just months ago, harboring such thoughts would have been considered profoundly immoral within the confines of the *Post*.

The evidence keeps mounting that many regulations are ridiculously wasteful. The *Post* editorial cited a recent study published by two Commerce Department economists, Gary L. Rutledge and Susan Lease-Trevathan, that shows industry spent $54 billion in 1981 alone for pollution control and abatement. That's "a good deal larger than the total revenues from the corporate income taxes," the editorial observed, and said it amounted to a pollution tax. "A tax on industrial pollution is fair and desirable," the *Post* concluded, but concentration on the metals, chemicals and electric power industries has reached a level "high enough to affect profoundly the way the national economy works."

Mr. Bennett is a free-lance writer and public information officer for a number of Federal agencies, including OSHA. Currently he is writing a book, "Crimes Against the Truth: An Indictment of the Environmental Movement."

The forced resignation of Anne Gorsuch Burford (above) may prove to be a hollow victory for environmentalists. Both EPA and the movement are under fire, and significant changes are likely.

Effective Congressional review of basic environmental issues would benefit America's industrial community more than economically: It should serve to remove finally from industry the false stigma of being the primary cause of cancer.

Politicians could be losers

If industry stands to be the winner in such proceedings, there will be losers, and not just in the environmental movement. The biggest losers could be politicians, especially Presidential candidates. Liberals and conservatives, Republicans and Democrats could all end up accused of playing fast and loose with the facts, stirring up the public's fears while currying contributions from business.

Moreover, such exposure could prove acutely embarrassing for Federal bureaucrats as well as the lobbyists, lawyers and "advocacy" scientists who have prospered from regulations whose benefits have been far outstripped by the costs.

Consequently, efforts can be expected to forestall incisive Congressional analysis, and then to mute the impact on the public. In fact, say syndicated columnists Rowland Evans and Robert Novak, "The skillful sacking of Anne Burford and the ingenious recruitment of Bill Ruckelshaus" were designed by the White House to draw attention away from the explosive issues Congressional review would uncover. "It is a quick fix and nothing more," a White House aide told the columnists.

Indeed, the *Washington Post*'s Michael Barone, in a signed article on March 21, argued that the Reagan Administration may have lost the campaign over the environment by resorting to such a "quick fix." He wrote: "As one who is not sympathetic to the Reagan Administration's position on the environment, I'm sorry that it has handed this issue over to the environmentalists and the Democrats. . . . The Reaganites have lost a chance to move opinion on environmental issues and to change policy more than temporarily. They have denied the public a chance to hear a second side of an important debate. They may still win the battle of EPA, but they have lost this battle of ideas."

In the haste to find a successor to Anne Burford who would be acceptable to opinion shapers such as the *Washington Post*, White House political operators apparently didn't dig very deeply into Mr. Ruckelshaus's background. If they had, they would have discovered that at least two books have been written about his highly controversial decision as EPA administrator (a job he held from 1970-1973, during the Nixon Administration) to ban the pesticide DDT in June 1972, five months before the Presidential election.

In taking the action, Mr. Ruckelshaus overrode his own administrative law judge who ruled, after presiding over 17 months of hearings, that DDT was not a carcinogen—the only legal basis for ordering a ban. Indeed, the judge went so far as to declare: "Surely

it can't be seriously contended that the fact that DDT has NOT (capital letters those used by the judge) been proven NOT to be carcinogenic to man is a logical reason for advocating a . . . ban on all future uses of DDT."

Mr. Ruckelshaus, nevertheless, went ahead with the ban, apparently against the wishes of then President Nixon. Defying Presidential wishes isn't always a matter of high principle, however. Mr. Ruckelshaus has since admitted his decision was based on political considerations—the public sentiment—"albeit politics with a small 'p.' "

"Society demands certain decisions be made by someone," he says, "and in this case I was the someone." He explains he was strongly influenced at the time by the idea that there can be no safe level of exposure to a carcinogen—while admitting there is "no evidence" DDT causes cancer.

Investigations abound

Regardless of the Administration's motives for appointing Mr. Ruckelshaus, the confirmation will not blunt Congress's determination to investigate fully environmental policy.

A subcommittee of the Senate Committee on the Environment and Public Works has started oversight hearings on EPA—"far more intensive than usual." In addition, at least four House of Representatives subcommittees are conducting similar hearings.

Further, Justice Department officials announced on May 16 that a grand jury soon would be impaneled to investigate the possibility that two former EPA officials committed perjury in testimony before House committees. The two officials—both of whom have denied any wrongdoing—are Rita M. Lavelle, former head of the toxic waste program, and Robert M. Perry, former general counsel.

Business and industry public relations departments, meanwhile, have developed much more sophisticated methods of dealing with the claims of EPA and of the environmental movement. Moreover, not-for-profit organizations that tend to support private-sector positions are now well-established in Washington. These organizations include the Media Institute, Accuracy in Media and the American Business Media Council.

Says Bernard Yoh, communications director of Accuracy in Media, "We're urging public relations firms nationally to develop what we call 'confrontational public relations programs.' All that means is going on the offense, making lists of friends and foes, buying time on the radio, publishing and distributing leaflets in front of newspapers and TV stations, feeding information to friendly journalists, contacting other advertisers and sponsors and demanding—in a common front—an opportunity to tell your side of the story."

Mr. Yoh argues, too, that industry must directly attack the presumption of the environmentalists that they have a mandate to represent the poor. "Take nitrates in bacon and ham, for example," he said. "If those preservatives weren't used, and there are no other effective alternatives, prices would soar, and, on top of that, people would end up getting food poisoning. And, the irony is the nitrates can almost be completely washed off before cooking, so there isn't really any reason why anyone has to be exposed to them in the first place."

Another advocate of industry initiatives is Paul Lyons, president of the American Business Media Council. "It isn't enough for particular industries or individual companies to mount their own public relations campaigns," he warns. "They have to recognize their joint interest in creating a climate of public opinion that will help revive the economy."

Unparalleled opportunity

The confirmation of Mr. Ruckelshaus provides an unparalleled—and probably never to be repeated—opportunity to review the nation's basic environmental policy. Individual companies are, of course, free to urge Congress to press on with hearings, and to urge Washington-based media to cover those hearings fully and fairly. Strategies for pooled efforts can be worked out.

During the hearings support for the industry position can be expected from the scientific community as well as political liberals. Congress's own research arm, the Office of Technology Assessment, may be the most significant witness.

The office, which advises Congress on all scientific issues, released a report in June 1981 titled "Assessment of Technologies for Determining Cancer Risks from the Environment." Written primarily by Dr. Richard Doll (perhaps the most respected epidemiologist in the world and the first to substantiate the relationship between cigarette smoking and cancer) and Dr. Richard Peto, both of Oxford University, the report concluded:

"Studies over the last two decades yielded a variety of statements that 60 to 90 percent of cancer is associated with the environment and therefore theoretically preventable. *'Environment,' as used in those statements and as used in this report, encompasses anything that interacts with humans, including substances eaten, drunk and smoked; natural and medical radiation; work place exposures; drugs; aspects of sexual behavior; and substances present in the air, water and soil.* [Italicized words appeared in bold-face type in the report.] Unfortunately, the statements were sometimes repeated with 'environment' used to mean only air, water and soil pollution."

No one knows better how unfortunate the narrow definition of 'environment' was—and is—than Dr. John Higginson, founding director of the World Health Organization's International Agency for Research Against Cancer.

Dr. Higginson originated the statement, "60 to 90 percent of cancer is associated with the environment." And he's been trying to explain what he really meant for the past 20 years.

Dr. Higginson conducted a study of cancer patterns throughout the world during the 1950s, and found some interesting national, regional and sociological differences.

In a tape-recorded interview published in *Science*, the magazine of the American Association for the Advancement of Science [*September 28, 1979*], Dr. Higginson explained the term he used in his study:

"When I used the word 'environment' in those days, I was considering the total environment, cultural as well as chemical. By cultural, I meant mode of life. When we ran that study of blacks [a comparative study of African and American blacks] in 1952, we started looking at their diets, how they lived, the age of menopause, the age of menarch [the onset of menstruation]—all that was included in the term 'environment.' I've checked it in every dictionary and every dictionary gives the same [definition]. Environment is what surrounds people and impinges upon them, the air you

breathe, the culture you live in, the agricultural habits of your community, the social culture habits, the social pressure, the physical chemicals with which you come in contact. A lot of confusion has arisen in later days because most people have not gone back to the early literature, but have used the word 'environment' purely to mean chemical."

When asked during the interview whether Dr. Higginson thought his conclusions had been abused all along, he replied:

"They have been [mis]interpreted, funnily enough, not [by] the majority of scientists with whom I have contact but by the chemical-carcinogen and especially the occupational people.

"There is one thing I should say has led to the association of the term 'environment' with chemical carcinogens. The ecological movement, I suspect, found the extreme view convenient because of the fear of cancer. If they could possibly make people believe that cancer was going to result from pollution, this would facilitate the cleaning up of the water, the air or whatever it is. Now, I'm all for cleaning up the air, and all for preventing [another] Love Canal, but I don't think we should use the wrong argument for doing it.

"To make cancer the whipping boy for every environmental evil may prevent action when it does matter, as with cigarettes. I think people had a gut feeling that pollution *ought* to cause cancer. You asked me: Were people honest? I don't think some people were dishonest, but rather they found it hard to accept that general air pollution, smoking factory chimneys and the like are not the major cause of cancer. People would love to be able to prove that cancer is due to the general environment or pollution. It would be so easy to say 'let us regulate everything to zero exposure and we have no more cancer.' The concept is so beautiful that it will overwhelm a mass of facts to the contrary."

Regulations to prevent this presumably modern disease have been pursued in Washington for the past five years, spearheaded by the Occupational Safety and Health Administration (OSHA). But the efforts have been successful only to the extent of paying out millions, if not

[*Continued on page 17*]

CARCINOGENS AND FEDERAL POLICY

What is really at stake in the continuing controversy over the Environmental Protection Agency isn't just the appointment of William Ruckelshaus, but the credibility of an Administration policy being developed to regulate carcinogens.

The Office of Science and Technology, under the aegis of Vice President Bush's office, is drafting a government-wide policy that would significantly change the methods used to protect the public from cancer-causing agents.

It is hoped that the policy "will add to the scientific credibility" of regulatory agencies such as EPA, the Occupational Safety and Health Administration and the Food and Drug Administration, according to Denis Prager, chairman of an interagency staff group preparing the proposal.

The policy incorporates several majos changes in methodology, according to Philip Shabecoff, writing in *The New York Times* on Dec. 3, 1982:

- Acceptance of the principle that there are "threshold" or tolerance levels of exposure that are safe. The prevailing assumption is that any exposure, no matter how little, carries measurable risk of cancer.
- Differentiation between cancer-causing agents that cause cell mutations (mutagens) and those that cause genetic changes (teratogens). Regulatory approaches would be altered accordingly. Until now, all carcinogens were regulated in the same manner.
- Less reliance on laboratory tests on animals, and greater use of epidemiological studies of cancer in humans.
- Raising the level of risk considered significant for human exposure, and regulating accordingly.
- Placing more emphasis on lifestyle causes of cancer, such as smoking, and less on environmental causes, such as air, water and soil pollution.
- Giving increased weight to the costs as well as the benefits of regulatory decisions.

The changes are strongly opposed by scientists associated with the environmental movement. Myra L. Karstadt, director of the Environmental Cancer Information Center at Mt. Sinai Hospital in New York, for example, denounces the policy as "supply-side carcinogenesis."

Marvin Schneiderman, Ph.D., formerly of the National Cancer Institute, was one of 10 signers of a report developed at Mt. Sinai that tried to raise the Federally accepted estimate of cancer caused by occupation to 20 percent to 40 percent. The generally accepted estimate is 1 percent to 5 percent. The report, released in 1978 by then Department of Health, Education and Welfare Secretary Joseph Califano, has been univeraally condemned in the scientific literature.

Nevertheless, Dr. Schneiderman, now a teacher and consultant, contends, "If you are health oriented, you want to find things that cause cancer and regulate them."

And that, presumably, is what the Government will keep on doing if the Administration's new policy isn't adopted. ■

Michael J. Bennett

THE GREAT LOVE CANAL HOAX

FOR more than 10 years Federal agencies have been subject to a steady drumbeat of pressure, orchestrated through national media, to "do something" about cancer presumably caused by environmental conditions.

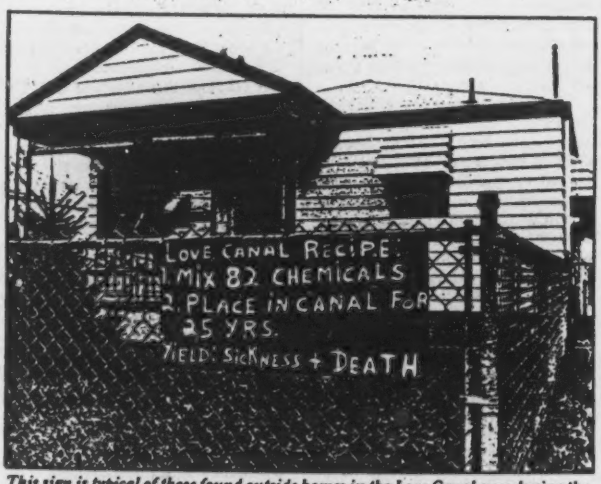
The consequences have been most extensively documented in the controversy over Love Canal in Niagara, New York. And therein lies a tale of media sensationalism bordering on fraud: The Great Love Canal Hoax.

In the late 1970s, the Environmental Protection Agency was being pushed to take action on Love Canal, a toxic waste dump that had been owned by the Hooker Chemical Company and ceded to the Niagara School Department under threat of eminent domain proceedings.

But EPA needed some scientific basis for acting on area residents' complaints about harmful emissions. Consequently, the agency turned to Dante Picciano, a former scientist for the Dow Chemical Co. and the Occupational Safety and Health Administration. While employed at Dow, Dr. Picciano had conducted studies that indicated workers were subject to chromosome damage if exposed to benzene, a chemical used in producing plastic film and dry cleaning fluid.

Later, when Dr. Picciano became controversial because of his role in the evacuation of Love Canal, *Science* magazine pointed out that "Everyone has some amount of chromosome damage." The damage, according to *Science*, "may be caused by viral infections, medical or dental x-rays, or exposure to chemicals, sunlight or certain medications. Therefore, it is extremely important that the cells of a suspect population be compared to [those] of a control population to see if the subject population has, on the average, excessive chromosomal aberrations."

Dow apparently was willing to redo Dr. Picciano's studies with such a control population, matched closely in terms of age, sex, medical history and geographic area—an expensive and time-consuming process. Dr. Picciano apparently was not. He left Dow for OSHA where his studies were used as the basis for a proposed standard that would much more stringently regulate exposure levels to benzene. OSHA used Dr. Picciano's work as a scientific justification for the regulation.



This sign is typical of those found outside homes in the Love Canal area during the height of the scare. The study that sparked the terror was later discredited.

Courtesy of Niagara Gazette

During the hearings on the benzene standard, however, James H. Jandel, a hematologist at Harvard Medical School, commented on Dr. Picciano's data: "The sloppy way this [benzene study] was handled is offensive to me." The Supreme Court must have agreed with Dr. Jandel, because it threw out the proposed standard.

All this was known when EPA gave Dr. Picciano a $10,000 contract to study possible chromosome damage in Love Canal residents. Stephen Gage, assistant administrator for research and development for EPA, later characterized the study as a "small fishing expedition." Certainly, $10,000 could pay for only the most modest of "fishing expeditions."

Dr. Picciano's EPA report was leaked to the press and the public, and the result was panic. Love Canal residents kept two of the agency's employees hostage for a few hours until President Carter ordered the area evacuated. The $10,000 study was to end up costing Federal taxpayers $3 million to $5 million.

'Botched study'

Science headlined its June 13, 1980 news account of the affair, "Love Canal: False Alarm Caused by Botched Study," and led with the following:

"The much publicized study of chromosome damage among residents of Love Canal has been discredited. The most recent attack was a panel convened by the Environmental Protection Agency on 27 May [which] has concluded the study has virtually no value and cannot be salvaged. Tragically, the EPA has ended up needlessly terrifying Love Canal residents."

The *Science* story went on to quote Perry Gehring, director of health and

environmental sciences for Dow: "If Picciano used the same controls in the Love Canal study as in the benzene study, then I assure you there are no controls."

One year later, *Science* published a definitive scientific analysis commissioned by the New York State Department of Health and extensively reviewed by qualified scientists. The analysis puts to an end—as far as the scientific community is concerned—any further debate over excessive cancer rates near and around Love Canal. Following is an excerpt:

"Data from the New York Cancer Registry show no evidence for higher cancer rates associated with residence near the Love Canal toxic waste burial site in comparison with the entire state outside of New York City. Rates of liver cancer, lymphoma and leukemia, . . . selected for special attention, were not consistently elevated."

Further, results of a Government study, released on May 17, 1983, indicate that "no specific relationship existed between exposure to chemical agents in the Love Canal area and increased frequency of chromosome damage." The study was conducted by the Centers for Disease Control in Atlanta and two major national laboratories.

The New York Times commented on the 1980 EPA Love Canal study in a June 19, 1981 editorial: "From what is now known, Love Canal, perhaps the nation's most prominent symbol of chemical assaults on the environment, has had no detectable effect on the incidence of cancer. When all the returns are in, years from now, it may well turn out that the public suffered less from the chemicals there than from the hysteria generated by flimsy research irresponsibly handled."

The Times might have added the "hysteria" was aided and abetted by the media, so busy serving up unsubstantiated facts and unconfirmed rumors that they failed to adequately investigate such "flimsy research." ■

Michael Bennett

[New broom, *from page 15*]

billions, of dollars to bureaucrats, scientific "experts," and lawyers in fees, salaries and commissions.

A study of this aspect of OSHA's activities was commissioned by the Senate Committee on Regulation and conducted in 1978-79 by Richard Zeckhauser, professor of political economy, and Albert Nichols, assistant professor of public policy, John F. Kennedy School of Government at Harvard. Their conclusions were scathingly blunt:

"Rather than continue on the course of its first seven years, we would argue that OSHA be disbanded. Safety and health in the work place would not suffer measurably, significant private and government resources would be saved, and an agency seen primarily as a tool of government harrassment would be eliminated. . . ."

Scientists' evaluations

Agencies such as EPA and OSHA cannot be properly examined exclusive of one another. Both were created by the environmental movement. Both are, in large measure, guided by scientific findings and principles that transcend arbitrary jurisdictional boundaries.

In that respect, a 1978 paper, "Estimates of the Fraction of Cancer in the United States Related to Occupational Factors," may prove to be the most significant in the modern history of the environmental movement, and should figure prominently in Congressional oversight hearings. The paper, "contributed to" but not signed by 10 prominent government scientists, tried to support OSHA's contention that 20 percent to 40 percent of cancer has an occupational cause. (Most scientists, however, agree only 1 percent to 5 percent of cancer can be linked to occupation.)

To prove the contention, the paper's contributors took figures based on exposure to cigarette smoking and linked those to data on shipyard workers exposed to asbestos during World War II. The report received a fair amount of media attention when its conclusions were accepted by then Secretary of Health, Education and Welfare Joseph Califano.

Unfortunately, the media didn't follow the story long enough to record the scientific community's response to the paper. *Lancet*, a British medical publication, bemoaned the fact that such a "shoddy piece of work could appear under such distinguished names." *Science* blasted the report, calling the estimates "clearly inflated."

In their book, "The Causes of Cancer," Dr. Doll and Dr. Peto evaluated the report: "These estimates of total risk were so grossly in error that no arguments based even loosely on them should be taken seriously. . . .

"It seems likely that whoever wrote the OSHA paper . . . did so for political rather than scientific purposes.

"We should suggest that the OSHA paper should not be regarded as a serious contribution to scientific thought, and should not be cited or used as if it were."

Whether or not the OSHA report should be regarded as a serious contribution to scientific thought, it is a typical product of Washington's regulatory climate, where influences are shaped behind closed doors.

The scientific evidence that links cancer to environment and occupation is very much in dispute. What seems beyond argument is that environmental policy has been controlled for more than 10 years by a small circle of Washington lawyers, lobbyists and advocacy scientists.

And all evidence points to the fact that the public is ripe for change.

Environmentalism, in its fanatic form, fails to balance the risks, costs and benefits of regulations with the need to build and sustain the economy and to finance cancer research. Now is the time to confront fanatic environmentalism and show it for what it is—a modern form of mass hysteria, a witch hunt in which industry is painted as the devil. ■

Will EPA Now Evacuate New Jersey?

Science Fights Back Against Dioxin Scares

By MICHAEL J. BENNETT

An entire generation of Americans has been mentally mugged by exaggerated claims that chemicals such as DDT, nitrites, cyclamates, and most recently, dioxin, poison the earth and plant the seeds of cancer within us.

But now, a raging dispute over dioxin, a contaminant found in the herbicide, Agent Orange, appears to have triggered a massive reaction in the scientific community. The reaction has been intensified by the action of the Environmental Protection Agency (EPA) in evacuating the citizens of the small town of Times Beach, Mo., from their homes.

The decision to order the evacuation last February 22 "came at a critical time for the agency," according to *Chemical and Engineering News (C&EN)*, an authoritative professional journal. *C&EN*, which devoted its entire June 6 issue to an exhaustive analysis of the dioxin issue, pointed out:

"EPA Administrator Anne Gorsuch Burford was under intense pressure from Congress for information relating to the actions the agency had or had not taken under the Superfund law, and that body was moving in early December toward finding Burford in contempt of Congress.... Then, in early February, the EPA administrator in charge of waste cleanup and Superfund, Rita Lavelle, was fired by President Reagan, amid allegations she had used the Superfund for political leverage in favor of Republican candidates.

"Possibly pushed a little faster than she would have been otherwise, EPA Administrator Burford announced February 22 that the federal government would buy up all the contaminated property in Times Beach, paying the residents at a price reflecting property values before the contaminant dioxin was found."

One indication the action was precipitate is the fact that almost six months after the evacuation order was issued, the Times Beach residents haven't received a dime for their property. A process that was to have taken no more than 60 to 90 days has been hopelessly snarled in red tape spun by EPA, the state of Missouri and the nearby city of St. Louis.

Times Beach 'Destroyed In Order to Save It'?

Times Beach residents may be fractionally less likely to get cancer 30 years from now — at the time in life when most people die either of cancer or heart disease — but in the meantime they've been driven out of their homes by their own government. Contemplation of the irony inevitably evokes memories of the anonymous American military officer reported to have said a Vietnamese village had to be "destroyed in order to save it."

Another indication is the fact that many scientists are no longer just privately grumbling that the faulty reasoning behind the Times Beach decision could result in demands to resettle everyone in northern New Jersy. Dioxin, after all, which may be a byproduct of factory and incinerator smoke, has been found at levels comparable to Times Beach in many communities in New Jersey.

The private grumbling has taken the form of public attacks, not only on EPA, but other federal regulatory agencies—and the politically oriented scientists who have provided rationales for evacuating a Times Beach, a Love Canal, and potentially most of a densely populated state.

The most sensational expression of this scientific reaction was the vote of the 351 members of the House of Delegates of the American Medical Association (AMA) on June 22 to "adopt an active public information campaign... to prevent irrational reaction and unjustified public fright and to prevent the dissemination of possible erroneous information about dioxin."

Dr. George Bohigian, sponsor of the resolution, was quoted in the Washington *Post*, June 23, as observing no serious medical effects have been found to have resulted from exposure to dioxin. Only two short-term reactions have been observed: temporary nerve damage causing numbness, and a skin condition, chloracne, similar to severe acne. Both conditions manifest themselves only among people exposed to extremely high levels of dioxin, and both clear up within weeks or months after removal from exposure.

The resolution, co-sponsored by other doctors like Dr. Bohigian who are from Missouri and have first-hand knowledge of the events in Times Beach, said:

"The news media have made dioxin the focus of a witch hunt by disseminating rumors, hearsay and unverified, unscientific reports...attributed to scientists whose quotes should have been, 'I don't know.'

"The lives and well-being of many inhabitants of the regions contaminated have been unnecessarily and ignorantly damaged by this type of reporting."

Dr. Irving Selikoff, a specialist in cancer presumably caused by asbestos at the Mt. Sinai Hospital Medical Center—and the source of many "unconfirmed" reports quoted by the media—was quoted in the *Post* as agreeing, at least in part, with the AMA resolution:

"We should not be saying things we don't know about.... In the short-term accidents it is true that we do not see...disease." Selikoff, however, added the caveat usually cited by scientists associated with the environmental movement: "We don't know its long-term effects." That argument infuriates most scientists who recognize the logical impossibility of proving a negative. A memorable colloquy between William Butler, legal counsel for the Environmental Defense Fund, and William Tucker, author of *Progress and Privilege*: "America in the Age of Environmentalism" illustrates the point:

"You can't prove that something doesn't cause cancer," Butler said, "because it may cause cancer, but nobody has been able to prove as yet that it does cause cancer."

By that reasoning, Tucker observed, you can't prove that dragons don't exist.

"Yes, you can't prove that dragons don't exist," Butler agreed.

That is a reasoning process which has been explicitly rejected both by Williams Ruckelshaus, the first and now the current administrator of EPA, and *Science*, the monthly magazine of the American Association for the Advancement of Science. *Science*'s record on this score, however, has been much more consistent than Ruckelshaus's.

Dioxin Does Not Enter Into Food Chain

Science, which has been highly critical of the work of Selikoff and other pro-environmental scientists over the years, published an editorial in its June issue, coincidentally with the passage of the AMA resolution. The editorial noted dioxin breaks down in the earth. But, unlike DDT and some other pesticides and herbicides, it does not make its way then into the food chain. Instead, it binds itself to the soil.

Consequently, while dioxin can be highly toxic when swallowed, "it does not pose much of a hazard" to humans who normally eat vegetables without gobbets of dirt attached.

Science went on to recommend commonsense controls on "unwanted industrial production" of dioxin and its formation in the "incineration of municipal waste." And it added that "natural degradation" in the soil will eventually clean up the problem.

But, if we "look at the record," as a great American politician, Al Smith, used to urge, the prognosis that EPA will, in fact, adopt such commonsense proposals isn't very encouraging.

• One day before the action taken by

Mr. Bennett, a free-lance writer, has been a reporter for the old Boston Herald and former Boston Record-American, a Congressional Fellow of the American Political Science Association, and a press officer for a number of federal agencies, including the Occupational Safety and Health Administration and the Veterans' Administration. He is currently writing a book, Betrayal of the Dream: "An Indictment of the Environmental Movement."

Former EPA Administrator Anne Gorsuch Burford (left) made the decision that the government would buy up all the contaminated property in Times Beach, Mo. Rita Lavelle (center), former administrator of EPA's "superfund," was fired by the President amid allegations she had used the fund for political leverage in favor of GOP candidates. William Ruckelshaus, current chief of EPA, set a dangerous precedent by banning the pesticide DDT when he was first administrator of the agency.

the medical association, New York's two senators, Daniel Patrick Moynihan, a Democrat, and Alfonse M. D'Amato, a Republican, issued an official government report assailing EPA's "sloppy" research on Love Canal. The study, compiled by Congress's own Office of Technology Assessment (OTA), concluded EPA hadn't adequate evidence to determine whether residence in the Love Canal area was hazardous or not.

The study confirmed an article in the June 13, 1980, issue of *Science*, which contended that the study which then-President Jimmy Carter cited in ordering evacuation of Love Canal was "botched." *Science* went on to add, "Tragically, the EPA has ended up needlessly terrifying Love Canal residents" — words that can apply equally as well to the people of Times Beach, today.

Analysis of Love Canal Toxic Waste Site

A year later, a definitive scientific analysis commissioned by the New York State Department of Health agreed there was "no evidence for higher cancer rates associated with residence near the Love Canal toxic waste site."

Even the New York *Times*, one of the most ardent purveyors of environmental alarms, conceded in a June 19, 1981, editorial, "From what is now known, Love Canal, perhaps the nation's most prominent symbol of chemical assaults on the environment, has had no detectable effect on the incidence of cancer. When all the returns are in, years from now, it may well turn out that the public suffered less from the chemicals there than from the hysteria generated by flimsy research irresponsibly handled."

The *Times*, of course, did not mention the role of the media in hyping that hysteria.

• Ruckelshaus, as EPA's first administrator, set an extremely dangerous precedent by banning the pesticide DDT. He did so even after his own administrative law judge, Edmund Sweeney, ruled, after 17 months of hearings, that DDT was not a cancer-causing agent. Indeed, the judge went to far as to declare, "Surely it can't be seriously contended that the fact that DDT has NOT [capital letters those used by the judge] been proven NOT to be carcinogenic to man is any logical reason for advocating...a complete ban."

Ruckelshaus, nevertheless, went ahead with a ban for what he admittedly described as "political, albeit with a small 'p' reasons," in an interview with this writer two years ago.

George Claus and Karen Bolandur, author of *Ecological Sanity*, a definitive study of the DDT proceedings, note the decision was made in June 1972, five months before the reelection of Ruckelshaus's then boss, President Richard Nixon. They also point out a failure to ban DDT would probably have been taken much amiss by the New York *Times*, then and now a prime booster of the Environmental Defense Fund.

One thing is certain: By taking that action, Ruckelshaus lent credence and the power of precedence to the inherently illogical reasoning of environmentalists who rely upon negative arguments.

• Other federal regulatory agencies have demonstrated equally cavalier disregard for scientific facts in promulgating regulations with profound effects both on public health and the economy. Examples abound, but three are particularly notable:

Saccharin: The first attempt to ban saccharin was tried by Dr. Harvey Washington Wiley, founder of the Food and Drug Administration (FDA) back in 1908.

Wiley's basis for arguing saccharin was dangerous were tests performed on his "Poison Squad," young men fed increasingly large doses of chemicals as supplements to their diets. Such practices today would be considered not only unsound scientifically but criminally unethical. President Theodore Roosevelt, a saccharin user himself, thought such a ban would be "idiotic." He convened a panel of independent scientists, the Remsen Board, which agreed with him.

Saccharin was considered safe for general consumption until 60 years later when FDA, under Commissioner Donald Kennedy, tried to impose a ban for the second time. The result was a firestorm of protest. Congress received more letters on the issue than it had on Watergate, according to Rep. James Martin (R.-N.C.), one of the few trained scientists in Congress.

During the height of the controversy, a Canadian study was disclosed which suggested the normal use of artificial sweeteners such as saccharin increased the risk of bladder cancer in men by 60 per cent. Commissioner Kennedy seized upon the study, even before it had been published or peer reviewed, and declared it was "virtually certain" proof saccharin caused cancer in humans.

Since then, three additional studies, one performed by the National Cancer Institute—the largest on bladder cancer ever conducted—has found no increase in cancer risk associated with normal use of saccharin either in men or women.

However, saccharin would be banned today if Congress, led by Rep. Martin, hadn't intervened and forced a number of postponements of further FDA action.

Cyclamates, another popular artificial sweetener, with the additional benefit, unlike saccharin, of not leaving a bitter aftertaste, wasn't quite so fortunate. Cyclamates were banned within days after an FDA scientist, Dr. Jacqueline Verrett—later a close associate of Ralph Nader—went on the "Today Show" in 1969 with some deformed chicken embryos. She claimed the deformities were caused by repeated injections of cyclamates, which should, therefore, be banned under the Delaney Clause of the 1958 Food and Drug Act.

Federal technicians began taking soil samples at Times Beach in January to determine whether dioxin had been spread by recent floods in the evacuated St. Louis suburb.

The clause prohibits the use in food of anything which causes cancer in laboratory animals.

However, as Dr. Elizabeth Whelan — author for several years of a syndicated newspaper column on food and nutrition with Dr. Frederick Stare, former dean of the Harvard School of Public Health—points out, the key verb in the Delaney Clause is "ingest," not "inject." The verb was used, at the insistence of Elliot Richardson, assistant secretary of health, education and welfare (HEW) in 1958, as she observes in her book, *Panic in the Pantry*:

> ***The House of Delegates of the AMA in June approved a resolution to 'adopt an active public information campaign...to prevent irrational reaction and unjustified public fright and to prevent the dissemination of possible erroneous information about dioxin.'***

She quotes Richardson:

"Concentrated sugar solutions, certain vegetable oils, and even cold water have been reported to cause a type of cancer at the site of injection when injected repeatedly by hypodermic needle...but scientists have not suggested that these same substances cause cancer when swallowed by mouth [ingestion]."

Coincidentally, Dr. Bernard L. Oser of Food and Drug Laboratories had conducted some animal tests on cyclamates on behalf of Abbot Laboratories, the manufacturer.

Dr. Oser found, at extreme exposure levels—the equivalent of a 130-pound man drinking 300 cans of diet soda a day over a lifetime — half of his specimen rats might get lesions, but not necessarily malignant lesions, of the liver.

Dr. Oser has, in subsequent years, contended in the scientific literature, notably in *Human Pathology*, that his tests could not, under any circumstances, be considered adequate evidence for a ban on cyclamates. Nevertheless, on Oct. 18, 1969, then-HEW Secretary Robert H. Finch, invoking the Delaney Clause—a law he has subsequently said should be repealed or modified — banned cyclamates.

The action took effect immediately, and inventory losses to Abbot Laboratories and commercial and industrial users have been estimated at $100 million. Four years later, Abbot Laboratories, citing new evidence and studies, asked for a review of the ban. FDA took seven years until 1980 to reject the petition, in the process committing enormous errors in the use of statistics and analysis of laboratory data.

A committee of the American Statistical Association in a letter to then-FDA Commissioner Jere Cooyan cited interpretations "foreign to everything that is taught in the statistics profession." At the same time, the Society of Toxicologists vehemently criticized FDA's use of laboratory animal tests.

Both groups asked for retractions. Neither received one, and cyclamates are still banned.

FDA Calls for Ban on Nitrites

Nitrites are a commonly used form of food additive used as a preservative in meats, primarily pork products such as bacon and ham. In 1978, Dr. Paul Newman of the Massachusetts Institute of Technology reported to FDA that feeding sodium nitrite to rats seemed to produce a kind of cancer called lymphomas. FDA and Commissioner Kennedy called for an immediate ban on nitrite, even though the result could be food poisoning and the destruction of the $12-billion-a-year pork industry. And yet, a prudent and inexpensive alternative was available — even if the danger was real. Consumers simply should be advised to wash pork products before cooking, thus effectively removing the nitrites.

As it was, even that wasn't necessary. Dr. Newman later called FDA to report some changes in the tumor incidences he had previously reported. That warranted a decision to hire an independent group of pathologists which concluded Dr. Newman's original interpretation

was 10 times too high. "In fact, there was no evidence whatever of any significant increase in tumor incidence," according to William R. Havender, an environmental consultant writing in the June issue of *American Spectator*. Only then was the threat of a ban withdrawn.

The scientific evidence presumably indicting Agent Orange and dioxin as a cause of serious illness, including cancer, is even less substantive. The special-issue-length *CAEN* report on dioxin concluded "scientists have yet to find any human death has resulted from exposure to dioxin."

Among the cases examined were the explosion of a chemical plant in Seveso, Italy, in 1976, where more than 37,000 people were exposed to dioxin. No long-term ill effects have been reported, however.

In Alsea, Ore., where Agent Orange was sprayed each spring to control weeds, a group of nine young women complained that 13 miscarriages in their group in the mid-'70s might be linked to the spraying. EPA conducted two studies. The first found no correlation between the spraying and the miscarriages. The second was more suggestive.

Exactly one day after the second study was submitted to EPA, a ban was imposed. But the study "did not stand up to critical evaluation," *CAEN* reported. "A team of University of Oregon researchers in 1979 panned the study on practically all counts." Yet the EPA ban still remains in force, despite the fact there is evidence the women, members of a counter-culture commune, and their husbands were traffickers in illegally grown marijuana, plants destroyed by herbicides such as Agent Orange, according to local newspaper accounts of arrests.

No Evidence of Harm by Agent Orange

There is also positive evidence that Agent Orange, and presumably dioxin as well, doesn't cause serious harm at the levels to which human beings are, or have been, exposed.

On July 1, the U.S. Air Force announced the "first good news" that the 1,247 Air Force officers and men who most intensively employed the use of Agent Orange in Vietnam as a jungle defoliant haven't died at greater rates than other servicemen. The results of that exhaustive study lend support to other findings reported by *CAEN*:

• Swedish epidemiologist Lennart Hardell of University Hospital, Umea, has been conducting long-term studies of Monsanto and Dow Chemical workers exposed to dioxin in 1949 and 1964. Of the 182 workers monitored, 54 could be expected to have died on the basis of mortality statistics. Only 36 have.

• Allan H. Smith at the school of medicine, Wellington, New Zealand, has been studying the incidence of soft-tissue sarcomas — a form of cancer associated with dioxin — among pesticide applicators there. A 1982 report found no instances of soft-cell sarcomas in the group. Parenthetically, a Washington State study of soft-cell sarcoma victims found the greatest percentage, in terms of occupation, among marine engineers and bankers.

> ***'. . . scientific evidence is making it ever more abundantly clear that branding chemical pesticides as a major cause of cancer and birth defects is most profoundly dishonest. And it is becoming increasingly apparent that total bans on substances such as DDT and even Agent Orange are grossly exaggerated—and potentially disastrous — reactions to serious but nevertheless controllable problems.'***

Those are groups, as *CAEN* noted, "that would not be expected to have a particularly high exposure to dioxins." Herbicide and pesticide applicators, of course, would be expected to have a much higher exposure. Therefore, since New Zealand requires herbicide and pesticide applicators to be registered, exposure records "are particularly good in that country," to quote *CAEN* again, and therefore Dr. Smith's findings have particular relevance.

• A highly praised study of the reproductive effects of dioxin on the families of Australian soldiers exposed to Agent Orange in Vietnam finds no increase in miscarriages or birth defects among those families.

• The Michigan Department of Public Health released a report in May showing no increase in miscarriages or birth defects among children born in Midland County, Michigan. Midland is the home base of Dow Chemical Co., the primary manufacturer of Agent Orange. Moreover, according to Midland Mayor Joseph Mann, the "overall cancer rate for Midland is low — below the national average, below the state average, and below the average for the surrounding region."

The fear of cancer as a product of environmental influences — particularly chemicals such as DDT, nitrites, cyclamates, saccharin, dioxin, etc. — is perhaps the most intellectual, emotional and scientific surrender to sheer, naked fear in modern history.

No one knows that better than Dr. John Higginson, founding director of the World Health Organization's International Agency for Research Against Cancer.

Dr. Higginson originated the statement that "60 to 90 per cent of cancer is associated with the environment," back in the 1950s. And he's been trying to explain what he meant ever since.

Regional, Sociological Cancer Patterns Study

In a tape-recorded interview published in *Science*, Sept. 28, 1979, Dr. Higginson spelled out precisely what he meant. He had conducted a study of cancer patterns throughout the world in the '50s and found some interesting national, regional and sociological differences.

"When I used the word 'environment' in those days, I was considering the total environment, cultural as well as chemical. By cultural, I meant mode of life. When we ran that study of blacks [a comparative study of African and American blacks] in 1952, we started looking at their diets, how they lived, the age of menopause, the age of menarch [the onset of menstruation]—all that was included in the term 'environment.' I've checked it in every dictionary and every dictionary gives the same [definition].

"Environment is what surrounds people and impinges upon them, the air you breathe, the culture you live in, the agricultural habits of your community, the social culture habits, the social pressure, the physical chemicals with which you come in contact. A lot of confusion has arisen in later years, because most people have not gone back to the early literature, but have used the word 'environment' purely to mean chemicals."

Association of 'Environment' With Chemical Carcinogens

When asked during the interview whether Dr. Higginson thought his conclusions had been abused, he replied:

"They have been [mis] interpreted friendly enough, not [by] the majority of scientists with whom I have been in contact, but by the chemical-carcinogen and especially the occupational people.

"There is one thing I should say has led to the association of the term 'environment' with chemical carcinogens. The ecological movement, I suspect, found the extreme view convenient because of the fear of cancer. If they could possibly make people believe that cancer was going to result from pollution, this would facilitate the cleaning up of the water, the air or whatever it is. Now, I'm all for cleaning up the air, and all for preventing [another] Love Canal, but I don't think we should use the wrong argument for doing it.

"To make cancer the whipping boy for every environmental evil may prevent action where it does matter, as with cigarettes. I think people had a gut feeling that pollution *ought* [italics Higginson's] to cause cancer. You asked me: Were people dishonest? I don't think some people were dishonest, but rather they found it hard to accept that general air pollution, smoking factory chimneys and the like, are not the major cause of cancer.

"People would love to be able to prove that cancer is due to the general environment or pollution. It would be so easy to say, 'let us regulate everything to zero exposure and we have no more cancer.' The concept is so beautiful that it will overwhelm a mass of facts to the contrary."

"A lie can be halfway around the world before the truth gets its shoes on," the famous author Mark Twain observed almost a century ago.

Twenty years ago—a generation—the almost equally famous author Rachel Carson suggested the indiscriminate and excessive use of pesticides such as DDT, no matter how beneficial in the short term, might be sowing the seeds of ecological disaster. She was advancing a hypothesis, a theory which might or might not be borne out by events.

A little over 10 years ago, Frank Graham, her biographer and defender, admitted in *Since Silent Spring* that the hypothesis remained unproven:

"It would be dishonest today to brand chemical pesticides as a major cause of cancer and birth defects. But it would be foolhardy to suggest that we already know the full cost to our health that we must pay for their unrestricted use in the environment."

Today, just a few months away from 1984, the scientific evidence is making it ever more abundantly clear that branding chemical pesticides as a major cause of cancer and birth defects is most profoundly dishonest. And it is becoming increasingly apparent that total bans on substances such as DDT and even Agent Orange are grossly exaggerated—and potentially disastrous —reactions to serious but nevertheless controllable problems.

Cliches have sometimes been described as the axiomatic expression of truth, and, in that context, two come immediately to mind:

1. "Moderation in all things," and

2. "Don't throw out the baby with the bath water."

It isn't necessary to be conservative to believe the truth always makes itself felt, if only by the weight of accumulated experience and knowledge. However, it does help to understand why so many crimes against the truth have been committed both by liberal Republicans and Democrats. They are trying to provide legal and regulatory answers to problems which can only be resolved by scientists whose minds are enlightened by God.

Dioxin and Agent Orange: Catalytic Agents

In life and politics, as well as in science, the process of seeking the truth can be speeded up enormously by the introduction of a new element or compound in a solution called a catalytic agent.

The ouster of Anne Gorsuch Burford, the re-appointment of William Ruckelshaus to EPA, the plethora of new studies on chemicals such as dioxin and Agent Orange, and a host of books and articles currently being published on these issues, are such catalytic agents.

No one can predict what the consequences will be. But one thing does seem certain: If Ruckelshaus ever does decide to evacuate New Jersey because of dioxin, he ought to retain Orson Welles to make the announcement. After all, it was Welles who was responsible for the panicky evacuation of the state back in 1938.

The only difference was the fear wasn't inspired by the possible dangers of a chemical, but the radio dramatization of a book regarded by many as prophetic, H.G. Wells' *War of the Worlds*.

Perhaps this time Orson could cadge part of his script from another book, also considered as prophetic, *Silent Spring*.

But it might be well for the rest of us to remember—before the hysteria dies down—that it was man, and not mysterious invaders from Mars, who actually conquered space. And it will be the mind of man—touched by God—which will rid humanity of the scourge of cancer, if not the fact of death. That is the only prophecy we can be sure of. ■